

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-23487
Issue No.: 2009
Case No.: ██████████
Hearing Date: June 11, 2014
County: Wayne (82-76)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on June 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Whether the Department properly determine that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On August 6, 2012, Claimant applied for MA-P and retro MA-P to July 2012.
2. On October 8, 2012, the Medical Review Team denied Claimant's request.
3. On December 2, 2013, Claimant submitted to the Department a request for hearing.
4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 57 years old.

6. Claimant completed education through the 11th grade.
7. Claimant's limitations have lasted for 12 months or more.
8. Claimant suffers from lupus, high blood pressure, leg problems, swelling and ulcers.
9. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
10. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.
11. On August 22, 2013, the Social Security Administration (SSA) found Claimant disabled based upon a May 17, 2013, application with an alleged onset date of November 29, 2004.
12. On February 4, 2014, SHRT awarded benefits back to May 2013 and denied the prior months requested based upon the Social Security Determination.
13. On February 13, 2014, the Michigan Administrative Hearing System (MAHS) entered an order of partial summary disposition ordering the Department to activate MA coverage in accordance with the SHRT decision and ordering a hearing to continue in regards to months prior to the SHRT approval.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Because of the Order of Partial Summary Disposition, this Administrative Law Judge will only determine benefits prior to May 2013.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

In the instant case, the SSA found Claimant disabled as of May 2013 based upon an application dated May 17, 2013, with an alleged disability onset date of November 29, 2004. The SSA disability determination explanation was included as part of the SHRT decision. This explanation outlines the medical and rules considered by the SSA. This is important, as Claimant's hospitalization records, that were included as part of her application for MA, were reviewed and considered when the SSA rendered a decision. Claimant did not appeal the SSA determination. The medical evidence of record does not show any "other" impairments not considered by the SSA nor does the record demonstrate objective findings which would show significant worsening of Claimant's condition. Based upon 42 CFR 435.541, the SSA has made a final determination. Therefore a final determination has been made on this matter. Per BEM 260, pp.2-3, Claimant's case regarding benefits from July 2012 through January 2013 is hereby dismissed.


However, Claimant is eligible for consideration of three months of retro MA back from the SSA-established onset date. This Administrative Law Judge finds that Claimant's condition, age and work experience utilized by the SSA when determining her disabled as of May 2013 are, in fact, the same for the three months prior to the SSA award. Therefore, Claimant is eligible for MA benefits three months earlier based upon the adoption of the SSA findings.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled under the MA program as of February 2013.

Accordingly, the Department's decision is hereby PARTIALLY REVERSED and the Department is ORDERED to initiate a review of the application dated August 6, 2012, if not done previously, to determine Claimant's non-medical eligibility beginning February 2013. The Department shall inform Claimant of the determination in writing.

As indicated above, the portion of Claimant's hearing request concerning MA benefits from July 2012 through January 2013 is DISMISSED as the SSA has rendered a final decision.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 16, 2014

Date Mailed: June 16, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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