

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

**IN THE MATTER OF:**



Reg. No.: 14-006702  
Issue No.: 4009  
Case No.: [REDACTED]  
Hearing Date: October 14, 2014  
County: WAYNE-DISTRICT 57

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

Following the 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, a telephone hearing was held on October 14, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist, [REDACTED].

**ISSUE**

Whether the Department properly determined that the Claimant is not "disabled" for the purpose of the State Disability Assistance (SDA) 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 March 24, 2014, the Claimant applied for SDA.
2. On June 24, 2014, the Medical Review Team denied the Claimant's request.
3. On July 8, 2014, the Claimant submitted to the Department a request for hearing.
4. Born [REDACTED] the Claimant is 45 years old.
5. The Claimant completed education through eighth-grade.
6. The Claimant has no employment experience.
7. The Claimant's limitations have lasted for 12 months or more.

8. The Claimant suffers from depression, seizure disorder, cervical radiculopathy and chronic lower back pain due to a motor vehicle accident 2009, left hip replacement pain on his left side particularly his left knee.
9. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

### **PROCEDURAL HISTORY**

The record in this case was extended for additional medical evidence from the Claimant's treating psychiatrist and the Claimant's primary care physician regarding his mental health and his seizure disorder. These items were not received before the record was about to close, so the Administrative Law Judge extended the record for an additional 30 days so that the Michigan Administrative Hearing System administrative staff could contact the parties to determine if the medical evidence is forthcoming. There was no answer at the Claimant's phone number and the Department's worker submitted only a DHS-49, Medical Examination Report which was only partially completed by the Claimant's Dr. who is treating his back condition.

### **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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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).

In the present case, the Claimant has been diagnosed with depression, seizure disorder, cervical radiculopathy and chronic lower back pain due to a motor vehicle accident 2009, left hip replacement pain on his left side particularly his left knee. The Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions. The Claimant's treating physician noted that the Claimant can frequently lift less than 10 pounds and only occasionally lift up to 10 pounds. The Claimant is to never lift more than 10 pounds. The Claimant's treating physician for his back did not report on the Claimant's limitations with walking, standing and sitting. The Claimant testified that he would be able to stand for half an hour with his cane, but can only sit for 20 minutes depending on how comfortable the chair is.

There is no psychiatric evidence in the record regarding the Claimant's depression has nothing was returned from his treating psychiatrist. The Claimant was referred to the Department physician for a report on his limitations. That physician concluded that the Claimant has knee pain and pain on his left side. The Department's physician concluded that the Claimant has a limp on the left side and a decreased range of motion of the left knee. The Claimant was administered straight leg raising test. A supine position he was 40 on the left and 50 on the right. The Department's physician indicated that the evidence did not support the need for a walking aid; however, the Department's physician also indicates that the Claimant has need for a walking aid to reduce his pain.

The record also includes an MRI of the lumbar spine and an MRI of the cervical spine from 2010. At that point in time the Claimant was using a back brace. The MRI indicates that there was moderate dehydration of disc material at L5-S1 levels; the L3-L4 level demonstrated mild bilateral herniation of disc in the L3 neural foramina with mild early facet degenerative changes present at L3-L4. L4-L5 demonstrated no evidence of midline disc herniation; however, there was a presence of a mild disc herniation in the anterior inferior aspect of bilateral L4 neural foramina. There was mild facet and ligamentous hypertrophy at L4-L5 bilaterally. L5-S-1 level demonstrated midline and bilateral moderate herniation of disc without midline spinal stenosis; however, there was a marked compromise of the L5 neural foramina bilaterally due to superimposed encroachment by facet joint in relation to disc herniation. Regarding the Claimant's lower back the impression was that the Claimant has discogenic disease at the L5-S-1 level and that there is diffuse moderate midline and bilateral herniation of disc in the L5 neural foramina which are markedly narrowed due to superimposed facet and there is compromise of the exiting L5 nerve roots.

In this case, this Administrative Law Judge finds that the Claimant may be considered presently disabled at the third step. The Claimant appears to meet listing 1.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Claimant's testimony and the medical documentation support the finding that the Claimant meets the requirements of a listing.

Therefore, the Claimant is found to be disabled.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is medically disabled as of March, 2014.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application dated March 24, 2014, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for March 2016.



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Susanne E. Harris  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

SEH/hj

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

cc:

