

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001067
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: March 26, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED], the Claimant's Authorized Hearing Representative also appeared. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Medical Contact Worker who also appeared.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

FINDINGS OF FACT

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

1. Claimant's only basis for MA benefits was as a disabled individual. The Claimant applied for Medical Assistance on [REDACTED] and retroactive Medical Assistance beginning March 2014.
2. On [REDACTED] the Medical Review Team (MRT) determined that Claimant was not a disabled individual, in part, by determining that Claimant was capable of performing other work.
3. On [REDACTED], The Department denied Claimant's application for MA benefits and mailed a notice informing Claimant of the denial.

4. On January 23, 2015, Claimant's AHR requested a timely hearing disputing the denial of MA benefits.
5. As of the date of the administrative hearing, Claimant was a 48 year old female with a birth date of [REDACTED]. The Claimant was 5'4" tall and weighed 185 pounds.
6. Claimant completed a GED. The Claimant has prior work experience as a Dietary Aid. As a dietary aid Claimant's duties included serving 250 meals daily, as well as pushing pulling carts up to 40-60 pounds and loading the dishes into the dishwasher. The Claimant also worked in housekeeping performing cleaning, mopping floors and window cleaning as well as moving a push mop cart weighing about 30 pounds. The Claimant also worked as a unit clerk at a hospital loading doctor's orders into a computer.
7. Claimant alleged disability based on impairments including chronic severe low back pain and neck pain, as well as shoulder and hip pain after an automobile accident. The Claimant also alleged hypertension and chest pain with prior heart stenting and diverticulitis. The Claimant's hands also lock up.
8. The Claimant has not alleged any disabling mental impairments.
9. The Claimant's impairments have lasted or are intended to last for 12 months duration or more.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and 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 Department of Human Services) 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 person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. "Current" work activity is interpreted to include all time since the date of application. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

The Claimant had not worked since 2012. Accordingly, the presiding ALJ held that Claimant was not engaged in SGA and not disqualified from a finding of disability at step 1. The ALJ's findings and holdings were consistent with presented evidence. Accordingly, the analysis may proceed to step two.

To determine whether Claimant had a severe impairment, all evidence should be considered. The analysis will begin with a summary of presented medical documentation.

Claimant alleged disability based on impairments including chronic severe low back pain and neck pain, as well as shoulder and hip pain after an automobile accident. The Claimant also alleged hypertension and chest pain with prior heart stenting and diverticulitis. The Claimant's hands also lock up.

The Claimant was involved in a serious automobile accident where her car was hit and which resulted in injury to her back, neck, hip and shoulder. The accident occurred on

██████████.

An MRI of the Lumbar Spine was conducted on [REDACTED]. The Impression was large central disc herniation at L4-L5 contributes to borderline narrowing of the central canal with facet change, bilateral high grade epidural formlinal narrowing. Disc bulging at L3-L4, which contributes to mild encroachment of the anterior epidural space and inferior nerve root recesses. No disc herniation.

An MRI of the cervical spine was also conducted on [REDACTED]. The Impression was multi-level mid and lower cervical spine disc herniations, greatest at C6-C7 contributing to tight central canal stenosis at this level. Reversal of the mid lordotic curve, possibly in part due to cervical strain/sprain. There is an 8mm central disc herniation which encroaches the anterior ventral surface of the cervical cord without tight central canal or high grade neural formlinal narrowing. There is a forward projecting endplate spurring. There is a large 1.5 cm central disc herniation, which encroaches the anterior epidural space and approximates the anterior ventral surface of the cervical cord, displacing it posteriorly and contributing to tight central canal stenosis.

An MRI of the left shoulder was conducted [REDACTED], no evidence of rotator cuff tendon tear, grade 2 SLAP tear of the glenoid labrum. Mild AC joint degenerative change without impingement on the suprspnatus.

MRI of Left Hip was performed on [REDACTED]. The articular hip joint space is maintained. The femoral heal contour is smooth. No abnormal areas of increased signal within the bones to suggest fracture or a contusion. Degenerative Fibroid changes of the uterus.

The Claimant was seen by her treating doctor for follow up on [REDACTED]. The doctor's notes indicate that in regard to her post traumatic neck and back pain the further diagnosis and treatment was pending EMG. If no improvement will consider trigger point injections and neck brace. The Claimant was prescribed a neck brace at a reevaluation on [REDACTED].

The Claimant was reevaluated on [REDACTED] and the treating doctor noted that Claimant had difficulty walking and used a cane. Muscle spasm was noted as was tenderness in the neck and lower back. There was decreased range of motion in the C-Spine, lumbar spine and left should was 0-90. The Claimant's doctor prescribed housework help and transportation assistance.

The Claimant received a psychological examination on [REDACTED]. The summary and conclusion were that the Claimant is suffering from moderate levels of anxiety and depression. The recommendations were to continue physical therapy and attend weekly outpatient therapy to address psychological stressors reported during the clinical interview. Also recommended was a neuro psych evaluation in an effort to ascertain underlying issues pertinent to the reporting of physical and psychological symptomology.

As of the hearing date the Claimant's treating doctor has continued to find Claimant disabled such that he has prescribed services be provided to her including housekeeping and transportation as Claimant is restricted from driving. Neck surgery is also being considered.

Additional Medical Evidence shows a history of heart disease, requiring stenting and several hospitalizations in 2014 due to recurring chest pain and diverticulosis.

These results clearly establish that Claimant has met the severity requirement of Step 2 in that the MRI findings demonstrate significant impairment to basic work activities for a period longer than 12 months. Accordingly, it is found that Claimant has established having a severe impairment and the disability analysis may progress to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Listing 1.04 requires:

1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

- A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine);

Based upon the MRI evidence provided and the clinical findings based the Claimant's treating doctor's medical treatment notes it is determined that the Claimant has met the requirements of Listing 1.04 A and thus is found disabled with no further analysis required.

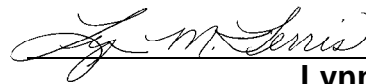
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled for purposes of the MA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process the Claimant's [REDACTED] MA application and retro application for March 2014 and determine if all non-medical eligibility requirements are met.
2. A review of this case shall be conducted in July 2015.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **7/23/2015**

Date Mailed: **7/23/2015**

LMF / hw

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:

