

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

IN THE MATTER OF:

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Reg. No.: 15-003549
Issue No.: 2009
Case No.: ██████████
Hearing Date: April 22, 2015
County: Wayne-District 18 (Taylor)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a 3-way telephone hearing was held on April 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ ██████████, authorized representative with ██████████ ██████████; Claimant's authorized hearing representative (AHR). Claimant did not participate. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

During the hearing, the AHR waived the time period for the issuance of this decision in order to allow for the submission of additional records. The record closed on May 22, 2015, and this matter is now before the undersigned for a final determination.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA-P) benefit program.

FINDINGS OF FACT

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

1. On February 27, 2014, Claimant submitted an application for public assistance seeking MA-P benefits, with a request for retroactive coverage to January 2014.
2. On May 21, 2015, the Medical Review Team (MRT) found Claimant not disabled.
3. On January 7, 2015, the Department sent Claimant and the AHR a Benefit Notice denying the application based on MRT's finding of no disability (Exhibit A).

4. On March 12, 2015, the Department received the AHR's timely written request for hearing.
5. Claimant alleged physical disabling impairment due to back pain, arthritis, diabetes, neuropathy, blurred vision, high blood pressure and tailbone cyst.
6. Claimant alleged mental disabling impairments due to depression and anxiety.
7. Claimant was not present at the hearing.

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.

MA-P benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2014), pp. 1-4. Disability for MA-P purposes is defined as the inability to do any substantial gainful activity (SGA) 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). To meet this standard, a client must satisfy the requirements for eligibility for Supplemental Security Income (SSI) receipt under Title XVI of the Social Security Act. 20 CFR 416.901.

To determine whether an individual is disabled for SSI purposes, the trier-of-fact must apply a five-step sequential evaluation process and consider the following:

- (1) whether the individual is engaged in SGA;
- (2) whether the individual's impairment is severe;
- (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404;
- (4) whether the individual has the residual functional capacity to perform past relevant work; and

- (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work.

20 CFR 416.920(a)(1) and (4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant did not appear at the hearing. Therefore, he could not testify regarding his current work activity. The only employment identified is on the medical-social questionnaire, DHS 49-F, dated January 10, 2014, completed and signed by a representative that indicates that Claimant last worked as a truck driver in January 2010 (Exhibit C, pp. 17-21). No other documentation and/or evidence were submitted to establish the employment status of the Claimant after January 10, 2014, until the hearing date. At the hearing, the AHR questioned the Department regarding whether Claimant had submitted any employment verifications within 12 months of the hearing date in connection with any active Department benefit cases he had. The Department initially testified that Claimant was a recipient of Food Assistance Program (FAP) benefits but then clarified that he was not. The Department further testified that there were no employment verifications on the electronic data management file. The Department was ordered to provide any employment verifications Claimant submitted to

the Department but concluded that none had been provided in the 12 months preceding the hearing.

In the absence of any evidence concerning Claimant's employment status from January 11, 2014, to the date of the hearing, Claimant has failed to meet his burden of showing that he has not engaged in SGA activity during the period for which assistance might be available. Because Claimant cannot satisfy Step 1, he is deemed not disabled, regardless of medical condition, age, education, or work experience. No further analysis is required.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant **not** disabled for purposes of the MA-P benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/01/2015**

Date Mailed: **6/01/2015**

ACE / tlf

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;

