

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 15-006982
Issue No.: 2009
Case No.: ██████████
Hearing Date: June 01, 2015
County: Macomb-District 36

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) 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 1, 2015, from Sterling Heights, Michigan. Claimant was not present at the hearing.

██████████, authorized hearing representative with ██████████ ██████████ ██████████, Claimant's authorized hearing representative (AHR), participated in the hearing on Claimant's behalf. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly determine 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. Claimant was an ongoing recipient of Adult Medical Program (AMP) benefits.
2. On April 30, 2010, Claimant applied for disability-based MA-P benefits, with request for retroactive coverage to January 2010.
3. On March 15, 2011, Claimant applied for Supplemental Security Insurance (SSI) benefits with the Social Security Administration (SSA).
4. On July 27, 2012, SSA approved the application, with a disability onset date of March 15, 2011 (Exhibit B).
5. The Department activated MA benefits for Claimant under the Ad-Care program effective February 1, 2011.

6. On February 17, 2015, the AHR filed a hearing request alleging that Claimant had failed to process the April 30, 2010, application and retro application.
7. In a Hearing Decision issued April 15, 2015, this ALJ ordered the Department to complete processing the application and to send written notice of its decision to Claimant and the AHR.
8. On April 16, 2015, the Department sent Claimant and the AHR a Benefit Notice denying Claimant's application for retroactive MA-P coverage based on the Medical Review Team's (MRT's) determination that she was capable of other work.
9. On April 30, 2015, the AHR filed a hearing request disputing the denial of retroactive MA-P coverage.

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

Step 1 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, she could not testify regarding her work activity during the requested retroactive months. In the medical-social questionnaire, DHS 49-F, Claimant signed on January 21, 2010, Claimant did not list any past work history but she also did not mark that she never worked or had not worked in the last 15 years (Exhibit A, p. 18). The AHR asserted that Claimant had last been employed as a barmaid in 2008. There is a job history page in the medical packet reporting the same information, as well as a comment in Claimant's February 22, 2011, psychiatric evaluation that she reported last working four years earlier (Exhibit A, p.8;

Exhibit 1, p. 39). However, there is no documentation signed by Claimant attesting to the veracity of the reported information. In the absence of any evidence concerning Claimant's employment status from January 2010 to January 2011, Claimant has failed to satisfy her burden of showing that she has not engaged in SGA activity during the period for which assistance might be available. Because Claimant cannot satisfy Step 1, she 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: **6/10/2015**

Date Mailed: **6/10/2015**

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;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

