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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: March 13, 2017  
MAHS Docket No.: 16-013563  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Gary Heisler

### **HEARING DECISION**

Following Petitioner'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 conducted on October 12, 2016 at the Department's Bay County Office in [REDACTED] Michigan. Petitioner appeared and testified. Petitioner was represented by her authorized hearing representative [REDACTED] of [REDACTED]. Participants on behalf of the Department included Assistance Payments Supervisor [REDACTED].

### **ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) 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. Petitioner was born on [REDACTED]. Petitioner is approximately 5'4" tall and weighs approximately [REDACTED] pounds. Petitioner's formal education consists of 10 years of school.
2. Petitioner reports relevant work history as a laundry worker, cashier and security guard. Petitioner reports last working in December 2012.
3. Petitioner asserts disability based on diabetes, heart attack and back problems. Department's Exhibit A page 8 Medical Social Questionnaire (DHS-49-f).

4. On July 29, 2015, Petitioner applied for Medical Assistance (MA) based on disability and retroactive Medical Assistance (MA) based on disability.
5. On July 29, 2016, the Department's Medical Review Team determined that Petitioner was not disabled in accordance with the standards for Medical Assistance (MA) based on disability.
6. On August 4, 2016, Petitioner was sent notice of the Department's determination.
7. On September 20, 2016, [REDACTED] submitted a request for 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 Health and 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.

Disability determinations done by the State of Michigan for Medical Assistance (MA) based on disability use the Social Security Administration standards found in United States Code of Federal Regulations (CFR) at Title 20, Part 416. The law defines disability 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 at least 12 months. To meet this definition, you must have severe impairments that make you unable to do your past relevant work or any other substantial gainful work that exists in the national economy.

In accordance with the Federal Regulations an initial disability determination is a sequential evaluation process. The evaluation consists of five steps that are followed in a set order.

#### **STEP 1**

At this step a determination is made on whether Petitioner is engaging in substantial gainful activity (20 CFR 416.920(b)). If you are performing activities for pay or profit, we will use 20 CFR 416.971 through 416.975 to evaluate the activities to determine if they are substantial gainful activity. Substantial gainful activity is defined as work activity:

that is both substantial and gainful; and involves doing significant physical or mental activities. Gainful work activity is work activity that you do for pay or profit (20 CFR 416.972). If you are engaged in substantial gainful activity, you are not disabled regardless of how severe your physical or mental impairments are and regardless of your age, education, and work experience.

Based on the evidence in the record and Petitioner's testimony, Petitioner has not received earnings as an employee since the date of application. Therefore, Petitioner is not engaged in substantial gainful activity. Petitioner is not found ineligible and the analysis proceeds to step two.

## **STEP 2**

At the second step it is determined whether you have a severe physical or mental impairment that meets the duration requirement or a combination of impairments that is severe and meets the duration requirement (20CFR 416.920). An impairment or combination of impairments is severe within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include:

Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;

Capacities for seeing, hearing, and speaking;

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.

An impairment or combination of impairments is not severe if it does not significantly limit your physical or mental ability to do basic work activities (20 CFR 416.921).

In addition to the limiting effect of the impairments they must also meet durational requirements of 12 months for Medical Assistance (MA) based on disability. If we determine that your impairments are not severe, you are not disabled.

Petitioner asserts disability based on diabetes, heart attack and back problems. Department's Exhibit A page 8 Medical Social Questionnaire (DHS-49-f). What follows is a synopsis of all relevant evidence in the record from medical sources presented in chronological order.

There is documentation from Petitioner's hospitalization between September 2, 2015 and September 5, 2015. Department's Exhibit A pages 77-103. Petitioner was admitted on September 2, 2015 from the ER complaining of chest pain and shortness of breath. A cardiac catheterization was performed and showed: right coronary artery was totally occluded; left main coronary artery was normal; left anterior descending coronary artery was an average caliber vessel with no significant focal atherosclerosis; a diagonal branch of the left anterior descending coronary artery was an average caliber vessel with ostial 90% stenosis; the distal posterior lateral branch of the left circumflex coronary artery was an average caliber vessel with 90% stenosis in its proximal segment and 95% stenosis in its mid segment. Petitioner's right coronary artery was successfully stented.

There is documentation from Petitioner's hospitalization between [REDACTED]. Department's Exhibit A pages 118-143. Petitioner was admitted through the emergency room complaining of chest pain. The documentation includes a [REDACTED], portable chest radiography report from Doctor [REDACTED] Department's Exhibit A page 137. The findings were: The heart is normal in size. The mediastinal contours are normal. Both lungs are normally expanded and clear. Visualized upper abdominal contents appear unremarkable. The Doctor's impression was that there were no significant findings.

There is also a [REDACTED], nuclear medicine rest/stress myoview examination report from Doctor [REDACTED] Department's Exhibit A page 138. The findings were: There is no evidence of fixed or reversible perfusion defect on the images reviewed. The gated images demonstrate relatively subtle hypokinesis of the inferior wall. Contraction otherwise remains symmetric. The estimated ejection fraction was normal with a value of 75%. The transient ischemic dilation ratio was 1.12. The Doctor's impression was that it was difficult to exclude subtle manifestations of myocardial scarring involving the inferior wall but there was no convincing evidence of reversible ischemia.

On [REDACTED], Petitioner was ambulated and discharged home with instructions regarding diet, activities, medications and follow-up. Petitioner's condition at discharge was satisfactory.

#### 20 CFR 416.927

How we weigh medical opinions. Regardless of its source, we will evaluate every medical opinion we receive. Unless we give a treating source's opinion controlling weight under paragraph (d)(2) of this section, we consider all of the following factors in deciding the weight we give to any medical opinion.

Examining relationship. Generally, we give more weight to the opinion of a source who has examined you than to the opinion of a source who has not examined you.

Treatment relationship. Generally, we give more weight to opinions from your treating sources, since these sources are likely to be the medical professionals

most able to provide a detailed, longitudinal picture of your medical impairment(s) and may bring a unique perspective to the medical evidence that cannot be obtained from the objective medical findings alone or from reports of individual examinations, such as consultative examinations or brief hospitalizations.

**Supportability.** The more a medical source presents relevant evidence to support an opinion, particularly medical signs and laboratory findings, the more weight we will give that opinion. The better an explanation a source provides for an opinion, the more weight we will give that opinion. Furthermore, because nonexamining sources have no examining or treating relationship with you, the weight we will give their opinions will depend on the degree to which they provide supporting explanations for their opinions.

**Consistency.** Generally, the more consistent an opinion is with the record as a whole, the more weight we will give to that opinion.

**Specialization.** We generally give more weight to the opinion of a specialist about medical issues related to his or her area of specialty than to the opinion of a source who is not a specialist.

The objective medical evidence has established that Petitioner has an impairment, or combination thereof, that has more than a *de minimus* effect on Petitioner's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Petitioner is not disqualified from receipt of Medical Assistance (MA) based on disability and the analysis continues.

### **STEP 3**

At the third step, it is determined whether your impairments meet or equal the criteria of an impairment listed in a Social Security Administration impairment listing 20 CFR Part 404, Subpart P, Appendix 1. If your impairment meets or equals the criteria of a listing and meets the duration requirement, you are disabled.

Petitioner's cardiac condition was compared with the Social Security Administration impairment listing 4.04 Ischemic heart disease. Petitioner does not meet or equal this listing because she does not have any medically determined ischemia.

### **STEP 4**

At the fourth step, we assess your residual functional capacity to determine if you are still able to perform work you have done in the past. Your residual functional capacity is your remaining physical, mental, and other abilities. It is a description of your maximum performance at work-like activities considering your impairments. It does not require that you be pain free, but rather is based on your ability to do work-like activities on a sustained basis despite limitations, such as pain, from your impairments. 20 CFR

416.929 says that statements about your pain or other symptoms will not alone establish that you are disabled, there must be medical signs and laboratory findings which show that you have a medical impairment(s) which could reasonably be expected to produce the pain or other symptoms alleged.

Your residual functional capacity is determined by considering all symptoms and the extent to which they can reasonably be accepted as consistent with the objective medical evidence and other evidence. All relevant evidence including reported symptoms and medical opinions are considered as required in 20 CFR 416.927, 416.928, and 416.929.

Physical, mental, and other abilities are outlined as follows in 20 CFR 416.945.

**Physical abilities.** When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work.

**Mental abilities.** When we assess your mental abilities, we first assess the nature and extent of your mental limitations and restrictions and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to carry out certain mental activities, such as limitations in understanding, remembering, and carrying out instructions, and in responding appropriately to supervision, coworkers, and work pressures in a work setting, may reduce your ability to do past work and other work.

**Other abilities affected by impairment(s).** Some medically determinable impairment(s), such as skin impairment(s), epilepsy, impairment(s) of vision, hearing or other senses, and impairment(s) which impose environmental restrictions, may cause limitations and restrictions which affect other work-related abilities. If you have this type of impairment(s), we consider any resulting limitations and restrictions which may reduce your ability to do past work and other work in deciding your residual functional capacity.

Classifications of work based on physical exertion requirements are defined in 20 CFR 416.967.

(a) *Sedentary work.* Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

(b) *Light work.* Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

(c) *Medium work.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work.

(d) *Heavy work.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work.

Petitioner asserts disability based on diabetes, heart attack and back problems. Consideration of your reported symptoms involves two parts. First is determining if there is any underlying medically determinable physical or mental impairment, shown by medically acceptable clinical and laboratory diagnostic techniques that could reasonably be expected to produce the symptoms you have reported.

Next all the medically supported symptoms you reported are evaluated. The credibility of the symptom's intensity, persistence, and limiting affects you reported, is considered in light of the entire case record.

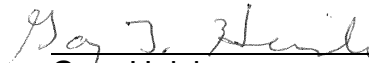
There is no objective medical evidence describing any physical or mental limitations. Considered on the whole, the evidence, opinions, and credible testimony show you have the residual functional capacity to perform medium work. Your past relevant work as a laundry worker, cashier and security guard does not exceed your residual functional capacity to perform medium work. You are capable of performing any of your past relevant work. You are found ineligible at this step.

**DECISION AND ORDER**

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 Petitioner not disabled for purposes of the MA benefit program.

Accordingly, the Department's determination is **AFFIRMED**.

GH/nr



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Gary Heisler  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL**: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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



**Counsel for Petitioner**

[REDACTED]

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]