

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-21948

Issue No: 4031

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 8, 2009

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on July 8, 2009. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that the claimant was no longer eligible for State Disability Assistance (SDA)?

FINDINGS OF FACT

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

(1) Claimant was approved by the Medical Review Team (MRT) on July 16, 2008 for SDA with a medical review date due in October, 2008.

(2) On March 16, 2009, MRT found that the claimant was no longer eligible for SDA.

(3) On March 18, 2009, the department caseworker sent claimant notice that her SDA benefits will terminate on March 31, 2009.

(4) On March 24, 2009, claimant filed a request for a hearing to contest the department's negative action, and department deleted SDA negative action pending the outcome of claimant's hearing.

(5) On June 4, 2009, the State Hearing Review Team also determined that the claimant did not meet SDA eligibility criteria as she was capable of performing other work, namely light work per 20 CFR 416.967(b) and Vocational Rule 202.17.

(6) Claimant is a 50 year-old woman who is 5'8" tall and weighs 284 pounds after gaining 44 pounds due to medications she is on. Claimant completed 8<sup>th</sup> grade and has no GED, as she had to quit school to go to work. Claimant can read, write and do basic math.

(7) Claimant states she last worked in December, 2006 as a vault cashier at the casino, job she had for 6 years and quit due to medical problems. Claimant has also worked as a clerk at a party store for 6 years from 1994 to 2000.

(8) Claimant alleges as disabling impairments: bipolar disorder, gastric ulcers, arthritis, recent knee replacement and latex allergies.

(9) Claimant has applied for SSI in 2007 and been denied, and is appealing the denial with the assistance of an attorney.

#### CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or

department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the State Disability Assistance program. 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

Once an individual has been determined to be “disabled” for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual’s disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual’s ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The claimant is not engaged in any work activity and last worked in December, 2006. Claimant’s medical records include an Office Note of [REDACTED], where the claimant returned for a check up following total knee arthroplasty performed two months before. Claimant has done exceptionally well and denied any complaints of pain. Her only complaint relates to progressive left knee pain.

[REDACTED], report is regarding a left total knee arthroplasty performed on this date. Claimant's final diagnoses upon hospital discharge is that of end-stage advanced degenerative joint disease, left knee, status post left total knee arthroplasty, hyperlipidemia, obesity, and history of polycystic ovarian syndrome. Claimant was discharged to her home in improved condition.

Claimant returned for a check up on [REDACTED], following her left knee surgery. Claimant's initial post-op range of motion was poor, but she has been working on aggressive home exercise program and is pleased with her progress to date. Claimant's only complaint is stiffness after prolonged sitting. On physical examination, claimant's active knee range of motion is from full extension to 120 degrees of flexion. Collateral ligaments are stable, excellent quadriceps and hamstrings motor strength was observed, and there were no signs of calf tenderness. Recommendations/plan are for the claimant to have follow up on an annual basis, as she has done quite well in her efforts in achieving excellent range of motion.

Office note for [REDACTED], indicates that the claimant stated her left knee pain has improved considerably, and she denied any swelling, fevers, chills or feeling of illness. On physical examination claimant's left knee incision site was well healed, and there was no evidence of a knee effusion. Claimant is nearly pain free at this point.

Psychiatry Progress Summary of [REDACTED] states as claimant's diagnosis bipolar disorder, headaches, gastric ulcer, arthritis, history of childhood abuse, and a GAF of 68. Claimant reported sleeping a lot and also gambling a lot in the past month, as she stays at the casino for 7-8 hours and has lost money. Claimant's father was paying her bills but he has died and the bank has a freeze on his account.

Psychiatry Progress Summary of [REDACTED], states as Nurse Practitioner Assessment that the claimant suffers from insomnia, depression, and is feeling numbs. Claimant reported gaining 40 pounds in the past month and this could be related to sweet cravings as well as her knee pain which affects her exercise. Claimant got her bike out and was told this was ok with her knee. Claimant needs to lose 64 pounds and she wants to have her breasts reduced after. Plan is for the claimant to try Alli diet supplement, reduce carbs and exercise more. Claimant's medications were reviewed and she felt she was stable on medications and did not want to make any adjustments at this time.

Secondly, if the individual has an impairment or combination of impairments which meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 of Chapter 20, disability is found to continue. 20 CFR 416.994(b)(5)(ii). Claimant's impairments do not meet or equal the severity of any of the listings.

In the third step of the sequential evaluation, the trier of fact must determine whether there has been medical improvement as defined in 20 CFR 416.994(b)(1)(i). 20 CFR 416.994(b)(5)(iii). Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most recent favorable medical decision that the claimant was disabled or continues to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs, and/or laboratory findings associated with claimant's impairment(s). If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 4 (which examines whether the medical improvement is related to the claimant's ability to do work). If there has been no decrease in medical severity and thus no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

Claimant was found eligible for SDA previously due to her knee problems and knee surgery she has undergone. However, new medical information establishes that the claimant has had both knee replacements and that she is doing very well as of December, 2008.

Claimant's alleged mental impairments appear to be caused by her depression over her father's death, and over her financial situation. Claimant was doing well on her medications as of January, 2009 and had specific goals she wanted to achieve, diet and exercise to help her physical condition.

It is the conclusion of this Administrative Law Judge that the claimant has undergone an improvement in her physical and mental impairments since the last approval for SDA.

In Step 4 of the sequential evaluation, the trier of fact must determine whether medical improvement is related to claimant's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv). 20 CFR 416.994(b)(5)(iv). It is the finding of this Administrative Law Judge, after careful review of the record, that there has been an increase in claimant's residual functional capacity based on the impairment that was present at the time of the most favorable medical determination. Thus, this Administrative Law Judge finds that claimant's medical improvement is related to claimant's ability to do work. If there is a finding of medical improvement related to claimant's ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth step of the sequential evaluation, the trier of fact is to determine whether the claimant's current impairment(s) is severe per 20 CFR 416.921. 20 CFR 416.994(b)(5)(vi). If the residual functional capacity assessment reveals significant limitations upon a claimant's ability to engage in basic work activities, the trier of fact moves to Step 7 in the sequential evaluation process. This Administrative Law Judge does not find that claimant's current

impairment(s) are severe to the extent that they cause significant limitations upon her ability to engage in basic work activities.

[In the seventh step of the sequential evaluation, the trier of fact is to assess a claimant's current ability to engage in substantial gainful activities in accordance with 20 CFR 416.960 through 416.969. 20 CFR 416.994(b)(5)(vii). The trier of fact is to assess the claimant's current residual functional capacity based on all current impairments and consider whether the claimant can still do work he/she has done in the past. Claimant worked at a casino for 6 years as a vault cashier, job that would appear to involve prolonged sitting. Claimant's medical record indicates that she has spent 7-8 hours at a casino last year gambling, and this activity would require prolonged sitting. Therefore, the conclusion is that the claimant could still do the work she has done in the past.

Even if the claimant could not do the past relevant work as specified in Step 7 of the analysis, in the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

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. 20 CFR 416.967(a).

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.... 20 CFR 416.967(b).

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. 20 CFR 416.967(c).

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. 20 CFR 416.967(d).

Claimant is 50 years of age, has limited education and unskilled work history. Claimant's medical information does not indicate that she would not be capable of performing light work. Claimant is therefore not considered disabled per Vocation Rule 202.10.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it determined that the claimant was no longer

disabled for the purpose of eligibility for State Disability Assistance benefits. The claimant should be able to perform a wide range of sedentary and light work even with her alleged impairments. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED, and it is SO ORDERED.

/s/

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Ivona Rairigh  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 1, 2009

Date Mailed: December 11, 2009

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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