

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: 2009-30335
Issue No: 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 27, 2009
Genesee 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 August 27, 2009. Claimant personally appeared and testified.

ISSUE

Did the claimant continue to be disabled and eligible for continuing State Disability Assistance (SDA), and did the department incorrectly terminate her SDA benefits in May, 2009?

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 for SDA by the Medical Review Team (MRT) in December, 2008 with a medical review date of April, 2009.
- (2) On April 29, 2009, MRT denied claimant's ongoing SDA stating that the claimant could perform past work.

(3) On May 12, 2009 the department's caseworker sent claimant a notice that her SDA benefits will terminate on May 26, 2009.

(4) On June 9, 2009, claimant filed a request for a hearing to contest the department's negative action, after her SDA benefits had already closed.

(5) On August 4, 2009, the State Hearing Review Team (SHRT) denied claimant's SDA citing insufficient evidence, and requesting additional medical information. This additional information was submitted to SHRT, and on November 20, 2009 more information was requested from Lansing Disability Determination Service.

(6) On January 20, 2010, after considering all of the additional information, SHRT determined that the claimant was capable of performing past work as a salesperson.

(7) Claimant is a 50 year old woman whose birth date is May 29, 1959. Claimant is 4'11" tall and weighs 102 pounds. Claimant has an Associate Degree in general science, and can read, write and do basic math.

(8) Claimant states that she last worked in August, 2006 as a bookkeeper, job that lasted 2 years and that she quit due to medical problems. Claimant also had a part time job from April, 2007 to January, 2009.

(9) Claimant currently lives alone in an apartment and receives financial help from her mother, and also gets food stamps. Claimant has a driver's license but does not drive due to seizures.

(10) Claimant alleges as disabling impairments seizures, migraines and depression.

(11) Claimant has applied for SSI in July, 2009 and her claim is pending.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

A person is disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of Medicaid (MA) benefits based upon disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261.

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).

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). Claimant is not working and has not worked since year 2006.

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 medical record will not support a finding that she has such an impairment.

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.

██████████, examination report quotes the claimant as saying that she is disabled because of seizures, and that she has about 12 or more in a month. Claimant cannot drive a car because of her seizures, she sleeps a lot, up to 3 to 4 days after a seizure. Claimant is also depressed and takes Celexa, and is getting counseling with the therapist. Claimant has been seeing a neurologist for the last 4 months, ██████████, and history obtained from ██████████ reveals that the claimant has a lesion in the brain. ██████████ has been treating the claimant for the past 20 years, lately she is getting more seizures than usual, and ██████████ feels that she is

disabled. Neurological exam was normal. Claimant was strongly urged to get psychiatric help due to depression.

Michigan Disability Determination Service Psychiatric/Psychological Medical Report of [REDACTED], states that the claimant drove herself to the appointment and arrived punctually. Claimant reported as her alleged impairments seizures, migraines, and depression. Claimant stated she ended her job as a bookkeeper in 2006 as she could not concentrate well enough to keep the job, and went on disability because she was having too many seizures. Claimant further stated that she avoids social interactions and stays home as much as possible, her son does grocery shopping for her, she watches TV, is able to complete basic household chores, and is independent in self-care and personal hygiene. Claimant also stated that she does not drive because of her seizures, but had a valid driver's license and drove herself to the appointment. Claimant was neatly dressed and her hygiene and grooming appeared to be appropriate. She does not require assistance in scheduling and keeping appointments. Claimant was in contact with reality throughout the examination, her gait and posture appeared to be normal, and psychomotor activity level also appeared to be normal. There was no significant evidence of hallucinations, delusions, persecutions, obsessions, thoughts controlled by others, or unusual powers. Claimant denied any recent suicidal or homicidal ideation, and she has never attempted suicide. Examiner's impression is that the claimant's mental abilities to understand, attend to, remember, and carry out instructions are mildly impaired. Her ability to respond appropriately to co-workers and supervision and to adapt to change and stress in the workplace are moderately impaired. Claimant's psychological condition would moderately impair her ability to perform work related activities. Claimant's diagnosis is major depressive disorder, moderate, seizures and migraines (per claimant's report), and current GAF of 56.

While the department has not provided previous MRT determination materials to show on what basis the claimant was approved for SDA, it is assumed this determination was based on claimant's report of seizures. Medical information cited above does not establish that the claimant continues to have a severe medical condition, and an improvement has occurred.

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. In this case, most recent medical reports do not reveal significant limitations upon the claimant's ability to engage in basic work activities. Conclusion is therefore that the claimant is capable of performing her past work as a salesperson, and is therefore no longer disabled for SDA eligibility purpose.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant is no longer disabled for SDA eligibility purpose, and therefore correctly terminated her SDA benefits in May, 2009.

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

/s/

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

Date Signed: March 4, 2010

Date Mailed: March 10, 2010

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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