

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.: 2010-10001
Issue No.: 2009, 4031
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
February 24, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on February 24, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) properly determine that claimant is no longer "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) programs?

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 has been an ongoing recipient of MA-P and SDA benefits for approximately five years.

- 2) The most recent Medical Review Team (MRT) approval occurred on April 9, 2007.
- 3) More recently, the department reconsidered claimant's ongoing eligibility for program benefits.
- 4) On September 28, 2009, the department notified claimant in writing of its intent to terminate his ongoing MA-P and SDA benefits based upon the belief that claimant no longer met the requisite disability criteria.
- 5) On October 1, 2009, claimant filed a timely hearing request to protest the department's proposed negative action.
- 6) Thereafter, the department deleted its proposed negative action pending the outcome of the instant hearing.
- 7) Claimant, age 49, is a high-school graduate.
- 8) Claimant last worked in July of 2001 in an automotive assembly line as a machine operator. Claimant has had no other relevant work experience.
- 9) Claimant has a significant history of depression.
- 10) Claimant currently suffers from major depressive disorder, single episode, severe, without psychotic features.
- 11) When comparing current medical documentation with past documentation, it is found that medical improvement of claimant's condition has occurred as there has been a decrease in the severity of claimant's impairments as shown by changes in symptoms, signs, and/or medical findings.

- 12) Medical improvement of claimant's condition is related to claimant's ability to do work as there has been an increase in claimant's residual functional capacity to do basic work activities.
- 13) Claimant continues to suffer from a severe impairment which impacts upon his ability to respond appropriately to others.
- 14) Claimant is capable of performing the physical and mental demands necessary for simple, unskilled work activities.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

...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).

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). In this case, claimant is not currently working. Accordingly, claimant may not be disqualified for MA at this step in the sequential evaluation process.

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). This Administrative Law Judge finds that claimant's impairment is not a "listed impairment" nor equal to a listed impairment. See Listing 12.04. Accordingly, the sequential evaluation process must continue.

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.

In this case, the Administrative Law Judge, after comparing past medical documentation with current medical documentation, finds that there has been medical improvement. Prior to the most MRT approval on April 9, 2007, claimant's treating psychiatrist opined that claimant was markedly limited in nearly every area of understanding and memory, sustained concentration and persistence, social interaction, and adaption. More recently, on [REDACTED], claimant's treating psychiatrist found claimant to have no significant limitations with regard to thirteen classifications out of twenty with regard to understanding and memory, sustained concentration and persistence, social interaction, and adaption. Clearly, claimant has experienced medical improvement.

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. As indicated, on [REDACTED], claimant's treating psychiatrist opined that claimant was not significantly limited with regard to his ability to remember locations and work-like procedures; the ability to understand and remember one- or two-step instructions; the ability to carry out simple, one- or two-step instructions; the ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances; the ability to sustain an ordinary routine without supervision; the ability to

work in coordination with or proximity to others without being distracted by them; the ability to make simple work-related decisions; the ability to interact appropriately with the general public; the ability to ask simple questions or request assistance; the ability to get along with co-workers or peers without distracting them or exhibiting behavioral extremes; the ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness; the ability to be aware of normal hazards and take appropriate precautions; and the ability to travel in unfamiliar places or use public transportation. 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, the undersigned finds that claimant does have impairments which continue to significantly impact his ability to interact with others. On [REDACTED], the treating psychiatrist noted that claimant continues to have marked limitations with maintaining attention and concentration for extended periods of time. Thus, claimant must be found to continue to have a severe impairment. See 20 CFR 416.921.

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. In this case, claimant's relevant work history consists exclusively of work in an automotive assembly line as a machine operator. Given the concern of claimant's treating psychiatrist expressed on [REDACTED], with claimant's ability to maintain attention and concentration for extended periods, the undersigned has significant doubts as to whether or not claimant would be able to successfully participate in his past employment. Accordingly, we must consider whether claimant is capable of other work.

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). In this case, the Administrative Law Judge finds that claimant is capable of the physical and mental demands required to perform simple, unskilled work. Unskilled work is defined as follows:

Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider job duties unskilled if the primary work duties are handling, feeding, and offbearing (that is, placing over moving materials from machines which are automatic or operated by others), or machine tending, or a person can usually learn to do the job in 30 days and little specific vocational preparation and judgment are needed.

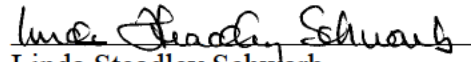
There is insufficient objective medical evidence, signs, and symptoms to support a determination that claimant is incapable of performing simple, unskilled work activities. After a review of claimant's medical records, including an evaluation from claimant's treating psychiatrist, claimant has failed to establish limitations which would compromise his ability to perform unskilled work activities on a regular and continuing basis. Accordingly, the undersigned finds that the department has properly determined that claimant is no longer disabled for purposes of MA.

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).

A person is considered 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 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 PEM Item 261. In this case, there is insufficient medical evidence to support a finding that claimant continues to be incapacitated or unable to work under SSI disability standards for at least 90 days. Accordingly, the undersigned finds that claimant is no longer disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly determined that claimant is no longer “disabled” for purposes of the Medical Assistance and State Disability Assistance programs. Accordingly, the department’s determination in this matter is hereby affirmed.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 30, 2010

Date Mailed: March 31, 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.

LSS/pf

cc:

