

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-41303

Issue No: 2009; 4031

Case No: [REDACTED]

Hearing Date: [REDACTED]

[REDACTED] DHS

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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 [REDACTED]. This hearing was originally held by Administrative Law Judge [REDACTED]. Judge [REDACTED] is no longer affiliated with the Michigan Administrative Hearings Systems, Administrative Hearings for the Department of Human Services. This hearing decision was completed by Administrative Law Judge [REDACTED] by considering the entire record. Claimant personally appeared and testified. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and 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. On [REDACTED], claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
2. On [REDACTED], the Medical Review Team denied claimant's application.
3. On [REDACTED], the department caseworker sent claimant notice that his application was denied.

4. On [REDACTED], the State Hearing Review Team again denied claimant's application stating that it needed additional medical information in the form of a physical examination and a mental status examination.
5. The hearing was held on [REDACTED]. At the hearing, claimant waived the time periods and requested to submit additional medical information.
6. Additional medical information was submitted and sent to the State Hearing Review Team on [REDACTED].
7. On [REDACTED], the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: This case was denied for continuing benefits by the Medical Review Team on [REDACTED]. A subsequent review by the State Hearing Review Team found that there was insufficient evidence for an appropriate review of continuing benefits and the case was returned to obtain current evidence. The case has now returned with only a physical examination, they also requested a mental status evaluation which is not in the file. The medical evidence of record indicates that significant medical improvement has been demonstrated and that there are no longer any severe limitations preventing the claimant from being gainfully employed. Significant medical improvement has been demonstrated using the evidence in file. The claimant is not currently engaging in substantial gainful activity based on the information that is available in the file. The medical evidence of record does not document a mental/physical impairment(s) that significantly limits the claimant's ability to perform basic work activities. Therefore, continuing MA-P is denied per 20 CFR 416.921 (a). Continuing SDA is denied per BEM 261 due to lack of severity. Retroactive MA-P was not considered as part of this continuing MA-P and SDA only review. Listings 1.04, 5.05, 11.14, 12.04, 12.08 and 12.09 were considered in this determination.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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).

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).

In general, claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

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, the claimant is not engaged in substantial gainful.

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).

The objective medical evidence in the record indicates that claimant had a normal physical examination on [REDACTED]. It was concluded that he had abdominal pain, Hepatitis C and diaphoresis. There was no cirrhotic disease or nephrolithiasis. There was no abdominal tenderness. The blood pressure in the left arm was 140/95 the pulse was 82 and regular. Respiratory rate was 12. Weight was 186 pounds and height was 66" without shoes. The patient was cooperative in answering questions and following commands. The patient's immediate, recent and remote memory is intact with normal

concentration. The patient's insight and judgment are both appropriate. The patient provides a good effort during the examination. The patient is right handed. Mental status was normal. Visual acuity was 20/25 in the left and right eye without corrective lenses. Pupils were equal, round and reactive to light. The patient can hear conversational speech without limitation or aids. His skin was normal. The neck was supple without masses. Breath sounds are clear to auscultation and symmetrical. There is no accessory muscle use. In the heart there was regular rate and rhythm without enlargement. There is a normal S1 and S2. In the abdomen there was no organomegaly or masses. Bowel sounds are normal. In the vascular system there was no clubbing or cyanosis detected. There is no edema appreciated. The peripheral pulses are intact. Hair was present and feet are warm with normal color. The musculoskeletal had no evidence of joint laxity, crepitation or effusion. Grip strength remained intact. Dexterity was unimpaired. He could pick up a coin, button clothing and open a door. The patient had no difficulty getting on and off the examination table, no difficulty heel and toe walking, no difficulty squatting and no difficulty hopping. Straight leg raising was negative. There was no paravertebral muscle spasm. Range of motion was normal in all areas. In the neurological area cranial nerves were intact. Motor strength and tone were normal. Sensory is intact to light touch and pinprick. Reflexes are 2+ and symmetrical. Romberg testing was negative. The patient walks with a normal gait without the use of an assistive device.

At Step 2, claimant's impairments do not equal or meet the severity of an impairment listed in Appendix 1.

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 the instant case, this Administrative Law Judge finds that claimant does have medical improvement and his medical improvement is related to the claimant's ability to perform substantial gainful activity.

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, this Administrative

Law Judge finds that claimant does have the residual functional capacity to perform at least light and sedentary work even with his impairments.

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 denied claimant's continued disability and application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a wide range of light or sedentary work even with his impairments. The department has established its case by a preponderance of the evidence. Claimant does have medical improvement based upon the objective medical findings in the file.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
[REDACTED]
Administrative Law Judge
for [REDACTED], Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

[REDACTED]

cc: [REDACTED]