

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:

[REDACTED]

Reg No. 201054549  
Issue No. 2009/4031  
Case No. [REDACTED]  
Load No. [REDACTED]  
Hearing Date: November 4, 2010  
Muskegon County DHS

**ADMINISTRATIVE LAW JUDGE:** Marlene B. Magyar

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 4, 2010. Claimant personally appeared and testified.

**ISSUE**

Did the department properly determine claimant was not entitled to continuing Medicaid (MA) and State Disability Assistance (SDA) eligibility at review?

**FINDINGS OF FACT**

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

1. Claimant is a divorced, 43-year-old high school graduate with an unskilled employment history who worked in a local vacation resort in [REDACTED] until 2007 when she developed acute anxiety/depression and suicidal ideation.
2. Claimant has remained unemployed since then.
3. On July 9, 2008, claimant applied for disability-based MA/SDA (Department Exhibit #1, pg 81).

4. When that application was denied claimant filed a hearing request, held January 21, 2009.
5. On March 12, 2009, the presiding hearing judge reversed the department's denial based on a finding claimant met Listing 12.04 (Affective Disorders), and also, he ordered a medical review of her condition take place the following year (3/10)(Department Exhibit #1, pgs 74-81).
6. When the department denied continued MA/SDA benefits based on a finding of improvement at review claimant filed another hearing request, held November 4, 2010.
7. Claimant stated at hearing she started participating in outpatient mental health counseling in 2008 and she continued until the community mental health professionals closed her case in September 2010 because they determined she was no longer a danger to herself or others.
8. Claimant currently lives alone in low-income housing; additionally, she has a valid driver's license and she owns a roadworthy vehicle.
9. Claimant is fully independent and capable of performing all daily living activities, and also, she stipulated on the record at hearing she has remained stable on the antidepressants currently being prescribed by her treating doctor (Pristiq/Wellbutrin).
10. On December 8, 2009, claimant filed a Social Security Administration (SSA) disability application; however, that application was dismissed as "withdrawn" in September 2010 (the same month claimant was deemed stable by community mental health), according to a computerized cross-check report (SOLQ) provided by the department at hearing (Department Exhibit #3, pgs 1-3).

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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).

"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.

The SDA program differs from the federal MA regulations in that the durational requirement is 90 days. This means that the person's impairments must meet the SSI disability standards for 90 days in order for that person to be eligible for SDA benefits.

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged, 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908 and 20 CFR 416.929. By the same token, a conclusory statement by a physician or mental health professional that an individual is disabled or blind is not sufficient without supporting medical evidence to establish disability. 20 CFR 416.929.

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. 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 disqualified from receiving continued disability benefits at this step because she has not been gainfully employed since 2007 (See Finding of Fact #1 and #2 above).

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). These listed impairments contain over 100 medical conditions which are automatically deemed to qualify an individual for a disability due to their severity. However, claimant's mental impairments at review fail to rise to listing status; consequently, this analysis 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).

In this case, this Administrative Law Judge finds improvement definitely has been shown. By her own admission, claimant's current medications have resulted in successful emotional stability to the point where the mental health professionals have now terminated case services.

Furthermore, it must be noted the law does not require an individual to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an individual's symptoms can be managed to the point where substantial gainful employment can be achieved, a finding of not disabled must be rendered.

In summary, the documentary evidence of record and credible testimony presented in this case clearly indicate claimant is fully capable of returning to the type of unskilled employment she previously held, or in the alternative, of engaging in any other type of simple, unskilled work currently existing in the national economy, which is the standard to be applied in disability determination cases. As such, the department's proposed negative action (case closure) must be upheld.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined claimant was not entitled to continuing MA/SDA eligibility at review.

Accordingly, the department's action is AFFIRMED.

/S/  
Marlene B. Magyar  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: November 22, 2010

Date Mailed: November 23, 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 receipt 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.

MBM/db

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