

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201036281

Issue No: 2009/4031

[REDACTED] [REDACTED]

Hearing Date:

July 1, 2010

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on July 1, 2010. Claimant was represented at the hearing by [REDACTED].

This hearing was originally held by Administrative Law Judge Ivona Rairigh. Judge Rairigh is no longer affiliated with the Michigan Administrative Hearing System Administrative Hearings for the Department of Human Services and this hearing decision was completed by Administrative Law Judge Landis Y. Lain by considering the entire record.

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. Claimant was receiving Medical Assistance and State Disability Assistance benefits. Claimant's case was scheduled for medical review July 1, 2009.
2. On May 10, 2010, the Medical Review Team denied claimant's continued application stating that claimant's condition demonstrates improvement with normal gait, heel toe walking and sensation. Still decreased range of motion. He should be capable of work that does not require heavy lifting or constant stooping or crouching.

3. On May 13, 2010, the department caseworker sent claimant notice that his continued application for Medical Assistance and State Disability Assistance benefits will be cancelled effective June 1, 2010.
4. On May 17, 2010, claimant filed a request for a hearing to contest the department's negative action.
5. On May 19, 2010, the programs were reinstated, no lapse in coverage due to the timely request for a hearing.
6. On September 1, 2010, the State Hearing Review Team again denied claimant's application stating that claimant is capable of performing other work in the form of light work per 20 CFR 416.967(b) pursuant to Medical Vocational Rule 202.21.
7. A hearing was held on July 1, 2010. At the hearing, claimant waived the time periods and requested to submit additional medical information.
8. Additional medical information was submitted and sent to the State Hearing Review Team on September 20, 2010.
9. On September 28, 2010, the State Hearing Review Team again denied claimant's application stating in its analysis and recommended decision: The objective medical evidence present does not establish a disability at the listing or equivalence level. The collective medical evidence shows that the claimant is capable of performing a wide range of light work. The claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light work. Therefore, based on the claimant's vocational profile of a younger individual, high school education and semi-skilled work history; MA-P is denied using Vocational Rule 202.21 as a guide. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above state level for 90 days.
10. Additional medical information was again received and sent to the State Hearing Review Team on May 17, 2011.
11. On May 19, 2011, the State Hearing Review Team approved claimant stating in its analysis and recommendation: This is a heavily convoluted case. The original hearing request submitted related to May 20, 2008 (retroactive consideration to February 2008) application appears to have never been addressed to completion. There is no evidence of an Administrative Law Judge (ALJ) determination within this file. The first approved application is dated January 22, 2009 and eventually retroactive MA-P was approved to October 2008; MRT determinations dated

March 24, 2009 and April 8, 2009. The evidence demonstrates that the denial of continuing MA-P and SDA benefits by the MRT on May 10, 2010 were essentially based upon the results of purchased consultative examinations of June 12, 2008 psychiatric and June 18, 2008 physical. It is not evident if the complete medical file was present for this review and if that is therefore why additional evidence was sought from outside sources. The medical evidence in the file is by far duplicated secondary to these multiple applications and appeals of these multiple and ongoing appeals. The preponderance of the evidence does not support the May 10, 2010 determination that there has been significant medical improvement. The medical evidence sufficiently demonstrates that the intent and severity of Listing 1.04 is equaled. MA-P and continued MA-P are approved. SDA and continuing SDA are approved per PEM 261. Retroactive MA-P was considered in this case and is approved. Per above rationale, MA-P and SDA ought to have been approved to May 20, 2008 with retroactive MA-P approval to February 2008. MA-P, retroactive MA-P and SDA were all approved. (MA-P and SDA to January 22, 2009, with retroactive MA-P approval to October 2008) as per the MRT determination dated April 8, 2009.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 Medical 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

Based upon the SHRT determination, it is not necessary for the Administrative Law Judge to discuss the issue of disability per BRIDGES Administrative Manual, Item 600. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides that the claimant meets the definition of medically disabled under the Medical Assistance program and the State Disability Assistance program as of May 20, 2008 with retroactive Medical Assistance approval to February 2008.

Accordingly, the department's decision is REVERSED. The department is ORDERED to initiate a review of the Medical Assistance and State Disability Assistance application if it has not already done so to determine if all other non-medical criteria are met. The department shall inform the claimant of the determination in writing.

The department is ORDERED to review this case for continuing MA-P and SDA benefits in May 2012. At review the following needs to be provided: prior entire medical packet; DHS-49B,D, E,F, G; all current hospital and test results; current consultative examination; including those purchased by the Social Security Administration/Disability Determination Services. Listing 1.02, 1.03 and 1.04, 5.01, 11.14. 12.04 and 12.09 were considered in this determination.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 8, 2011

Date Mailed: June 8, 2011

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.

LYL/db

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