

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2010-43151
Issue No: 4031
Case No: [REDACTED]
Hearing Date:
August 18, 2010
Calhoun County DHS (21)

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, a telephone hearing was held on August 18, 2010. Claimant personally appeared and testified. Claimant was represented at [REDACTED]

ISSUE

Did the Department of Human Services (the department) properly deny claimant's continued 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 September 17, 2008, claimant filed an application for State Disability Assistance benefits and was approved until October 16, 2008.
- (2) A review was conducted and claimant's State Disability Assistance benefits continued until April 2010 at which time a new review was taken.
- (3) On June 17, 2010, the Medical Review Team denied claimant's continued State Disability Assistance benefits.
- (4) On July 7, 2010, the department caseworker sent claimant notice that her application was denied.

- (5) On July 7, 2010, claimant filed a request for a hearing to contest the department's negative action.
- (6) On July 27, 2010, the State Hearing Review Team again denied claimant's application stating in its' analysis and recommendation: the claimant was approved SDA benefits in October 2008, based on her depression. Her mental status showed that she was lethargic, slow, avoided eye contact and her mood was depressed. Her affect was flat. In May 2010, the claimant was able to walk to the appointment herself about a mile. Her affect is dysphoric and she was tearful at times. However, her thoughts were organized, coherent and rational. The claimant reported back and knee pain but her gait was normal and her knee was within normal limits except for some crepitus with flexion. The claimant's impairment's 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 simple unskilled medium work. Therefore, based on the claimant's vocational profile of a younger individual, limited education and a history of unskilled work SDA is denied using Vocational Rule 203.25 as a guide because the nature and severity of the claimant's impairment's would no longer preclude work activity for the above stated level for 90 days.
- (7) The hearing was held on August 18, 2010. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (8) The record was left open until March 23, 2011, and not additional medical information was returned. Claimant's representative submitted a letter arguing on claimant's behalf that she be considered disabled and retain her State Disability Assistance benefits.
- (9) On the date of hearing claimant was a 46-year-old woman whose birth date is [REDACTED]. Claimant is 5'5 1/2" tall and weighed 140 pounds. Claimant attended the 10th grade and has no GED. Claimant is able to read and write and does have basic math skills.
- (10) Claimant last worked in 2006 at a carnival running a corndog and lemonade stand. Claimant has worked at [REDACTED] as a cashier and as a janitor, in a factory in the foundry and as a farmer.
- (11) Claimant alleges as disabling impairments: depression, carpal tunnel syndrome, tendinitis, and cysts in the back, migraine headaches, arthritis, asthma and emphysema.

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 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.

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 activity and has not worked since 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).

The objective medical evidence in the record indicates that claimant's impairment's did not meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 or Chapter 20.

A mental status in August 2008 showed the claimant was lethargic. She avoided eye contact. Her gait was slow. Mood was depressed and affect was flat. Thought processes were normal and thought content was age appropriate. Her recent memory and concentration in judgment were impaired. In May 2010 the claimant's mental status revealed the claimant walked about a mile from her apartment to her appointment. Her thoughts were organized, coherent, and rational. Speech was 100% understandable. Her affect was dysphoric and she became tearful at intervals. Diagnosis included dythymic disorder, major depressive disorder-recurrent-severe without psychosis and a learning disorder NOS.

In April 2010 the claimant was 5' 4.25" tall and weighed 147 pounds. She appeared older than her stated age. She was poorly groomed but able to communicate appropriately. Her gait was intact. Station and posture were normal. She had left knee pain but her knee examination was within normal limits except for some crepitus with flexion.

In April 2010 the claimant had a negative stress test. An echocardiogram done in April 2010 showed trace mitral, tricuspid, and mild aortic valve regurgitation but was otherwise unremarkable. Pulmonary function study dated April 2010 showed normal lung volumes, low normal diffusion capacity and mild obstructive ventilatory impairment.

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.

Thus, this Administrative Law Judge finds that claimant's. 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, this Administrative Law Judge finds claimant can perform at least light work even with his impairments.

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, this Administrative Law Judge finds that claimant could probably perform his past work as a cashier.

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 functional capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, based up on the claimant's vocational profile of , MA-P is denied using Vocational Rule as a guide. Claimant can perform other work in the form of light work per 20 CFR 416.967(b). This Administrative Law Judge finds that claimant does have medical improvement in this case and the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's Medical Assistance and State Disability Assistance benefits based upon medical improvement.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, page 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

