

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 201131114
Issue No: 4031
Case No: [REDACTED]
Hearing Date:
August 3, 2011
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. Claimant's request for a hearing was received on April 20, 2011. After due notice, a telephone hearing was held on Wednesday, August 3, 2011.

ISSUE

Did the department properly determine at medical review that the Claimant no longer met the disability standard for 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. The Claimant was approved for State Disability Assistance (SDA) on November 17, 2010.
2. At medical review, on April 5, 2011, the Medical Review Team determined that the Claimant no longer met the SDA disability standard.
3. On April 7, 2011, the Department sent the Claimant notice that it had terminated her State Disability Assistance (SDA) benefits as of May 1, 2011.
4. On April 20, 2011, the Department received the Claimant's hearing request, protesting the termination of State Disability Assistance (SDA) benefits.
5. On May 16, 2011, the State Hearing Review Team (SHRT) upheld the termination of State Disability Assistance (SDA) benefits.

6. A hearing was held on Wednesday, August 3, 2011.
7. The Claimant has a pending application for federal Supplemental Security Income (SSI) benefits at the Social Security Administration (SSA).
8. The Claimant is a 29-year-old woman whose birth date is 3/6/1982. Claimant is 5'6" tall and weighs 130 pounds. The Claimant is a high school graduate. The Claimant is able to read and write and does have basic math skills.
9. The Claimant has past relevant work experience as a waitress and a dancer.
10. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
11. The Claimant alleges the following disabling impairments: Endocarditis, hepatitis C and lupus.
12. On September 28, 2010, the Claimant was diagnosed with endocarditis with gram-positive cocci on blood cultures, heroin addiction, mild thrombocytopenia in the setting of chronic hepatitis C, a possible urinary tract infection, and hypokalemia.
13. On October 1, 2010, The Claimant was found to have methicillin-susceptible staphylococcus aureus endocarditis of both her aortic and tricuspid valve.
14. The Claimant experiences visual disturbances related to endocarditis.
15. On December 6, 2010, an echocardiography examination revealed aortic insufficiency.
16. The Claimant was admitted to [REDACTED] for heart surgery on [REDACTED], which consisted of the replacement of her aortic root, and repair of her tricuspid valve.

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. 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 (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).

Pursuant to the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for those benefits must be reviewed periodically. Before determining that a client is no longer eligible for disability benefits, the department must establish that there has been a medical improvement of the client's impairment(s) that is related to the client's ability to work. 20 CFR 416.994(b)(5).

...To assure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way, and that any decision to stop disability benefits are made objectively, neutrally and are fully documented, we will follow specific steps in reviewing the question of whether your disability continues. Our review may cease and benefits may be continued at any point if we determine there is sufficient evidence to find that you are still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first step asks the question:

(i) Are you engaging in substantial gainful activity? If you are (and any applicable trial work period has been completed), we will find disability to have ended (see paragraph (b)(3)(v) of this section).

Claimant is not disqualified at the first step of the sequential evaluation because she was not engaged in SGA at any time relevant to this matter. Therefore, the analysis continues.

The next step asks the question if there has been medical improvement. 20 CFR 416.994(b).

Medical improvement. Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued 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 your impairment(s)... 20 CFR 416.994(b)(1)(i).

...In determining whether medical improvement that has occurred is related to your ability to do work, we will assess your residual functional capacity (in accordance with paragraph (b)(1)(iv) of this section) based on the current severity of the impairment(s) which was present at your last favorable medical decision. 20 CFR 416.994(b)(2)(ii).

To assure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way, and that any decisions to stop disability benefits are made objectively, neutrally, and are fully documented, we will follow specific steps in reviewing the question of whether your disability continues. Our review may cease and benefits may be continued at any point if we determine there is sufficient evidence to find that you are still unable to engage in substantial gainful activity. The steps are as follows. 20 CFR 416.994(b)(5).

Step 1. Do you have an impairment or combination of impairments which meets or equals the severity of an impairment listed in appendix 1 of subpart P of part 404 of this chapter? If you do, your disability will be found to continue. 20 CFR 416.994(b)(5)(i).

The Claimant alleges disability secondary to endocarditis, hepatitis C, and lupus. Disability based on immune deficiency disorders, excluding HIV infection are documented and evaluated by the following criteria:

1. General.

a. Immune deficiency disorders can be classified as:

(i) Primary (congenital); for example, Xlinked agammaglobulinemia, thymic hypoplasia (DiGeorge syndrome), severe combined immunodeficiency (SCID), chronic granulomatous disease (CGD), C1 esterase inhibitor deficiency.

(ii) Acquired; for example, medication related.

b. Primary immune deficiency disorders are seen mainly in children. However, recent advances in the treatment of these disorders have allowed many affected children to survive well into adulthood. Occasionally, these disorders are first diagnosed in adolescence or adulthood.

2. Documentation of immune deficiency disorders. The medical evidence must include documentation of the specific type of immune deficiency. Documentation may be by laboratory evidence or by other generally acceptable methods consistent with the prevailing state of medical knowledge and clinical practice.

3. Immune deficiency disorders treated by stem cell transplantation.

a. Evaluation in the first 12 months. If you undergo stem cell transplantation for your immune deficiency disorder, we will consider you disabled until at least 12 months from the date of the transplant.

b. Evaluation after the 12-month period has elapsed. After the 12-month period has elapsed, we will consider any residuals of your immune deficiency disorder as well as any residual impairment(s) resulting from the treatment, such as complications arising from:

(i) Graft-versus-host (GVH) disease.

(ii) Immunosuppressant therapy, such as frequent infections.

(iii) Significant deterioration of other organ systems.

4. Medication-induced immune suppression. Medication effects can result in varying degrees of immune suppression, but most resolve when the medication is ceased. However, if you are prescribed medication for long-term immune suppression, such as after an organ transplant, we will evaluate:

a. The frequency and severity of infections.

b. Residuals from the organ transplant itself, after the 12-month period has elapsed.

c. Significant deterioration of other organ systems.

14.07 Immune deficiency disorders, excluding HIV infection. As described in 14.00E.

A. One or more of the following infections. The infection(s) must either be resistant to treatment or require hospitalization or intravenous treatment three or more times in a 12-month period.

1. Sepsis; or

2. Meningitis; or

3. Pneumonia; or

4. Septic arthritis; or

5. Endocarditis; or

6. Sinusitis documented by appropriate medically acceptable imaging.

Based on the evidence on the record, the Claimant did not have an impairment or combination of impairments which met or equaled a listed impairment found at 20 CFR 404, Subpart P, Appendix 1.

Step 2. If you do not, has there been medical improvement as defined in paragraph (b)(1)(i) of this section? If there has been medical improvement as shown by a decrease in medical severity, see step 3 in paragraph (b)(5)(iii) of this section. If there has been no decrease in medical severity, there has been no medical improvement. 20 CFR 416.994(b)(5)(ii).

On September 28, 2010, the Claimant was diagnosed with endocarditis with gram-positive cocci on blood cultures, heroin addiction, mild thrombocytopenia in the setting of chronic hepatitis C, a possible urinary tract infection, and hypokalemia. On October 1, 2010, physicians found the Claimant to have methicillin-susceptible staphylococcus aureus endocarditis of both her aortic and tricuspid valve. The Claimant appeared to be having complications of visual disturbances likely related to the endocarditis.

On December 6, 2010, the Claimant's condition had worsened and echocardiography revealed aortic insufficiency. The Claimant stopped using illicit drugs but resumed tobacco use after running out of nicotine patches. The Claimant's symptoms had been more severe while abusing heroin in the past.

On January 18, 2011, the Claimant was admitted to [REDACTED] for heart surgery to treat her aortic valve endocarditis and moderately severe tricuspid valve regurgitation. The procedure involved replacement of the aortic root and tricuspid valve repair. The Claimant tolerated the procedure well. On January 24, 2011, she was ambulating in the halls and tolerating a post-operative diet. An electrocardiography examination and laboratory tests were all within normal limits for a postoperative open-heart patient. On February 22, 2011, the Claimant's heart and pulmonary vasculature were found to be stable in size. There were some linear parenchymal changes but no definite finding of atelectasis, primarily at the right lung base and also in the left midlung field. There may have been a small amount of right pleural fluid. Claimant's troponin level of 0.01 is a negative test for increased risk of future adverse cardiac events.

The objective medical evidence indicates that there has been a decrease in the severity of the Claimant's medical condition following her heart surgery and the cessation of heroin abuse.

Step 3. If there has been medical improvement, we must determine whether it is related to your ability to do work in accordance with paragraphs (b)(1)(i) through (b)(1)(iv) of this section; i.e., whether or not there has been an increase in the residual functional capacity based on the impairment(s) that was present at the time of the most recent favorable medical determination. If medical improvement is not related to your ability to do work, see step 4 in paragraph (b)(5)(iv) of this section. If medical improvement is related to your ability to do work, see step 5 in paragraph (b)(5)(v) of this section. 20 CFR 416.994(b)(5)(iii).

The Claimant had suffered from methicillin-susceptible staphylococcus aureus endocarditis of both her aortic and triscup valve. Following replacement of the aortic root and tricuspid valve repair on January 18, 2011, the Claimant was ambulatory and tolerating a post-operative diet. Medical reports were negative for an increased risk of future adverse cardiac events. The Claimant is able to go for walks and perform light housework. The Claimant is able to care for herself by bathing and dressing herself. She is able to pick up clothing and make her bed. The Claimant has a driver's license and is able to diver herself. The objective medical evidence indicates that there has been medical improvement in the Claimant's condition that is related to her ability to do work.

Step 6. If your impairment(s) is severe, we will assess your current ability to do substantial gainful activity in accordance with § 416.960. That is, we will assess your residual functional capacity based on all your current impairments and consider whether you can still do work you have done in the past. If you can do such work, disability will be found to have ended. 20 CFR 416.994(b)(5)(vi).

The Claimant has a limited work history, which includes work as a waitress in 2009 and as a dancer in 2004. The Claimant is recovering from heart surgery and her capacity for physical exertion remains limited. The Claimant has been prescribed dilaudid, which she takes three times daily for pain. The Claimant testified that her pain level without the medication would equate to eight on a scale of ten. The objective medical evidence does not indicate that the Claimant is capable work working as a waitress or a dancer.

Step 7. If you are not able to do work you have done in the past, we will consider one final step. Given the residual functional capacity assessment and considering your age, education, and past work experience, can you do other work? If you can, disability will be found to have ended. If you cannot, disability will be found to continue. 20 CFR 416.994(b)(5)(vii).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the [REDACTED], published by the [REDACTED]... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

This Administrative Law Judge finds that the objective medical evidence on the record establishes that the Claimant has a Residual Functional Capacity (RFC) for Substantial Gainful Activity (SGA). Under the Medical-Vocational guidelines, a younger individual (age 29), with a high school education and an unskilled work history who is limited to sedentary is not considered disabled.

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. BEM, Item 261. 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 the 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.

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 determined that the Claimant was not eligible to receive State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department properly determined that the Claimant no longer met the State Disability Assistance (SDA) disability standard.

Accordingly, the department's State Disability Assistance (SDA) eligibility determination is AFFIRMED.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 17, 2011

Date Mailed: August 18, 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 60 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.

KS/tg