

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

IN THE MATTER OF:



Reg. No: 2011-50761
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date:
December 6, 2011
Wayne County DHS-35

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 December 6, 2011. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that Claimant was no longer disabled and deny his review application for Medical Assistance (MA-P) and State Disability Assistance (SDA) based upon medical improvement?

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 a Medical Assistance benefit recipient and his Medical Assistance case was scheduled for review in July 2011.
- (2) On July 18, 2011, the Medical Review Team denied Claimant's application stating that Claimant had medical improvement. (Department Exhibit A, pages 1-2).
- (3) On July 23, 2011, the department caseworker sent Claimant notice that his MA case and SDA would be closed based upon medical improvement.
- (4) On August 17, 2011, Claimant filed a request for a hearing to contest the department's negative action.

- (5) On October 17, 2011, the State Hearing Review Team again denied Claimant's Redetermination indicating that Claimant is capable of performing light work pursuant to Medical-Vocational Rule 202.21 and commented that 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, younger individual, 12th grade education and a semi-skilled work history, MA-P is denied using Vocational Rule 202.21 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per BEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.
- (6) On June 9, 2008, Claimant had a pacemaker (ICD-implanted cardioverter-defibrillator) put in as a result of congestive heart failure. (Department Exhibits 14-15).
- (7) On March 30, 2010, Claimant saw his doctor for follow-up. He has a very low ejection fraction of 15%, no complaints today. Denies chest pain or shortness of breath. (Department Exhibits 78-80).
- (8) On July 7, 2010, Claimant's cardiologist completed a medical examination report on behalf of the department. The cardiologist noted Claimant suffered from chronic systolic heart failure and his echocardiogram from December 2009 showed an ejection fraction of 15%, noted to be severe, which was post ICD. Cardiologist noted he was improving but had physical limitations that were expected to last more than 90 days. Cardiologist indicated Claimant could not meet his needs at home and would need assistance with housework, shopping and laundry. (Department Exhibits 75-77).
- (9) On July 13, 2010, Claimant saw his doctor for an office visit. Claimant had no complaints and was taking his medication as ordered. He appeared asymptomatic and doing well. Blood pressure very well controlled. No complaints. (Department Exhibits 12-13).
- (10) On July 15, 2010, Claimant's ICD was tested and he was found to be non-compliant with his Coreg medication, according to his arrhythmias. (Department Exhibits 14-15).
- (11) On September 2, 2010, Claimant saw his doctor complaining of dizziness. He reported that for the last month whenever he tried to raise his right arm to reach for something up high, he would sometimes get dizzy. No palpitation or chest pain. In his left arm, his blood pressure was 80/50, but in the right arm it was 65/50. The doctor noted that both symptoms and his physical exam were suggestive of subclavian steal syndrome,

especially the discrepancy in blood pressure between the two arms. Because the symptoms were not frequent, the doctor instructed Claimant to continue the aspirin and he would continue to observe and if Claimant was still experiencing the same symptoms at the next visit, he would investigate. (Department Exhibits 16-17).

- (12) On October 12, 2010, Claimant saw his doctor for follow-up. No complaints and his blood pressure well controlled. Last ejection fraction was 42%. ICD interrogation results under arrhythmias, numerous non sustained events, Claimant known to miss medications. No life threatening episodes. No symptoms. VT monitor changed to 160 bpm. (Department Exhibits 18-22, 45-53).
- (13) On November 29, 2010, Claimant saw his doctor to follow-up on his insomnia and cold hands. Symptoms of insomnia are worsening. Symptoms began a year ago and the complaints are continual. The cold hands began 3 months ago. He feels his hands go cold and warm up and start to numb. He started to use gloves all the time as that makes him feel better. No numbness in feet, or weakness or other neuro symptoms. Prescribed Restoril and advised him to wear gloves at this time. No suggestion of having other rheumatologic diseases. (Department Exhibits 23-25).
- (14) On January 11, 2011, Claimant saw his doctor for an ICD interrogation. The arrhythmias showed an episode of tachycardia, rate 150 ppm. Claimant had no symptoms and no changes were made. The Echocardiography report showed normal left ventricle size and thickness. Borderline impaired left ventricle systolic function. The visually estimated ejection fraction is approximately 50%. No regional wall motions abnormalities are apparent, impaired relaxation with normal filling pressures. Pseudodyskinesis of inferior segment is apparent. Left atrium appears normal in size. Right ventricle appears mildly dilated. Right ventricle has normal systolic function. Pacemaker/ICD lead is visualized in the right ventricle. Right atrium appears normal in size. Final Impression: Borderline low left ventricular systolic function. Grade 1 left ventricular diastolic dysfunction. Normal pulmonary artery systolic pressures. (Department Exhibits 26-27, 43-44).
- (15) On April 12, 2011, Claimant saw his doctor for a follow-up. No chest pain or shortness of breath. Blood pressure well controlled. He appears to be asymptomatic. EF up to 50% in January 2011. Encouraged to seek treatment for alcohol abuse. Continue current medical therapy. His ICD interrogation showed the VT rate was 160 and will be monitored. FVT rate was 185, shock 31x5. VF rate was 205, VF shock 31.8. Arrhythmias: 10NSVT all appearing to be SVT. He had no symptoms and no changes were made. (Department Exhibits 28-42).

- (16) On June 9, 2011, Claimant's cardiologist performed a medical examination on behalf of the department. The cardiologist noted Claimant was improving and stable with no physical limitations. The cardiologist indicated Claimant had no physical limitations, then limited Claimant to frequently carrying 10 pounds or less and limited to occasionally carrying 50 pounds or less. The cardiologist also indicated Claimant was capable of standing/or walking at least 2 hours in a work day and able to sit about 6 hours in a workday. Claimant had no limitations regarding the use of his hands, arms and legs. The cardiologist also noted that Claimant has a cardiac condition which should not prevent him from working as long as he continues his medication and reduces alcohol intake. (Department Exhibits 10-11, 56-58).
- (17) Claimant was receiving Medicaid and State Disability Assistance at the time of this review.
- (18) Claimant alleges as disabling impairments congestive heart failure.
- (19) Claimant is a 46-year-old man whose birth date is [REDACTED]. Claimant is 6'0" tall and weighs 155 pounds. Claimant is a high school graduate. Claimant is able to read and write and does have basic math skills.
- (20) Claimant last worked in 2008 doing home improvements for 5 years and prior to that he was a press operator for 4 years.

CONCLUSIONS OF LAW

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 Reference Tables Manual (RFT).

Pursuant to the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for such benefits must be reviewed

periodically. Before determining that a client is no longer eligible for disability benefits, the agency must establish that there has been a medical improvement of the client's impairment 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 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. 20 CFR 416.994(b)(5).

The first questions ask:

- (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 from this step because he has not engaged in substantial gainful activity at any time relevant to this matter. Furthermore, the evidence on the record fails to establish that Claimant has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues. 20 CF 416.994(b)(5)(ii).

The next step asks the question if there has been 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).

If there is a decrease in medical severity as shown by the symptoms, signs and laboratory findings, we then must determine if it is related to your ability to do work. In paragraph (b)(1)(iv) of this section, we explain the relationship between medical severity and limitation on functional capacity to do basic work activities (or residual functional capacity) and how changes in medical severity

can affect your residual functional capacity. 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).

The State Hearing Review Team upheld the denial of SDA and MA benefits on the basis that Claimant's medical condition has improved. Claimant was approved for SDA and MA benefits after being diagnosed chronic systolic heart failure. Pursuant to the federal regulations, at medical review, the agency has the burden of not only proving Claimant's medical condition has improved, but that the improvement relates to the client's ability to do basic work activities. The agency has the burden of establishing that Claimant is currently capable of doing basic work activities based on objective medical evidence from qualified medical sources. 20 CFR 416.994(b)(5).

In this case, the agency met its burden of proof. The agency has provided evidence that indicates Claimant's improvement relates to his ability to do basic work activities. The agency provided objective medical evidence from qualified medical sources, in particular his cardiologist, showing Claimant is currently capable of doing basic work activities. Accordingly, the agency's SDA and MA eligibility determination will be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the agency established that Claimant no longer meets the SDA or MA disability standard.

Accordingly, the agency's determination is UPHELD.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/20/11

Date Mailed: 12/20/11

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.

VLA/ds

■ [REDACTED]