

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201115314
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: April 13, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 April 13, 2011. The claimant appeared and testified.

ISSUE

Was a recovered non-severe physical impairment medically established?

FINDINGS OF FACT

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

- (1) In September 2008, the Claimant was originally approved for Medicaid/SDA based on cervical and thoracic spine impairment, and re-approved on March 31, 2009.
- (2) The new medical information since the March 2009 re-approval is a report dated [REDACTED] (Medical Packet, Page 61).
- (3) On January 6, 2011, the DHS terminated the Claimant's Medicaid/SDA based on a recovered non-severe physical impairment.
- (4) Medical examination on [REDACTED], states anterior cervical fusion at C5-6 level with the evaluation limited due to susceptibility artifact. There is moderate to severe left neural foraminal narrowing at the C4-5 level and

moderate narrowing of the left neural foramen at the C5-6 level. There is a small syrinx in the cervical cords at the C6 level measuring 8mm in length. There is no enhancement seen following contrast administration. Comparison with any prior MRI scans are recommended (Medical Packet, Pages 60 and 61).

CONCLUSIONS OF LAW

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The facts above are undisputed:

"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.

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM, Item 261, p. 1.

The DHS representative testified that the above mentioned report was the only new medical information after the Claimant's last re-approval based on his neck/back impairment. Otherwise, the Medical Packet was old medical information that had been used for the original approval and re-approval.

The medical report above does not clearly establish that the Claimant is no longer significantly limited to performing basic work activities, as defined below.

Basic work activities. When we talk about basic work activities, we mean the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting.
20 CFR 416.921(b).

This report does not address the Claimant's back condition, which was included in his last re-approval.

Therefore, a recovered non-severe physical impairment has not been established by the preponderance of the medical evidence of record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that a recovered non-severe physical impairment was not medically established.

Accordingly, MA/SDA termination is REVERSED, and reinstatement of benefits within 10 work days is ORDERED.

Medical review is suggested in April 2011.

/s/
William Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 9, 2011

Date Mailed: May 9, 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.

WAS/ar

cc:

