

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: 20112898

Issue No: 4031

[REDACTED]

Hearing Date

December 16, 2010

Berrien 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, a telephone hearing was held on December 16, 2010. . Claimant personally appeared and testified.

This hearing was originally held by Administrative Law Judge Jana Bachman. Judge Bachman is no longer affiliated with the State Office of Administrative Hearings and Rules 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 (department) properly deny claimant's continued application 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. Claimant was a State Disability Assistance (SDA) recipient and his medical review was scheduled for October 2009.
2. On September 15, 2010, the Medical Review Team (MRT) denied claimant's application for continued State Disability Assistance benefits.

3. On September 16, 2010, the department caseworker sent claimant notice that his application would be denied.
4. On October 14, 2010, claimant filed a request for hearing to contest the department's negative action.
5. On November 10, 2010, the State Hearing Review Team (SHRT) again denied claimant's application stating that it needed additional objective information in the form of a physical consultative examination by an internist to determine if claimant had continued disability. The department ordered also all treating sources from February 2010 to current.
6. Claimant was scheduled for examination on January 7, 2011.
7. The doctor's office confirmed that claimant did not show up for his scheduled appointment and there were no additional medical records to submit.
8. On the date of hearing, claimant was a 31-year old man whose birth date is [REDACTED]. Claimant was 6'1" tall and weighed 280 pounds. Claimant attended the 11th grade. Claimant is able to read, write and does basic math skills.
9. Claimant last work in 2009 in fast food.
10. Claimant alleges as disabling impairments: aortic valve replacement and an inguinal hernia.

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

If an individual fails to cooperate by appearing for a physical or mental examination by a certain date without good cause, there will not be a finding of disability. 20 CFR 416.994(b)(4)(ii).

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial gainful activity without good cause, there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

In the instant case, claimant was scheduled for an internist exam January 7, 2011. Claimant did not go to the examination, and therefore, failed to cooperate by appearing for a physical or mental examination without good cause. This Administrative Law Judge finds that there will not be a finding of disability pursuant to 20 CFR 416.994(b)(4)(ii).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's continued State Disability Assistance benefits. Claimant failed to cooperate by appearing for a physical or mental examination. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED.

/S/

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

Date Signed: April 12, 2011

Date Mailed: April 12, 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 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.

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LYL/db

cc:

