

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-43059

Issue No: 2009; 4031

[REDACTED]

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 [REDACTED]. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer disabled and deny her 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 her Medical Assistance case was scheduled for review in [REDACTED].
2. On [REDACTED], claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On [REDACTED], the Medical Review Team denied claimant's application stating that claimant had medical improvement.
4. On [REDACTED] the department caseworker sent claimant notice that her Medical Assistance case would be cancelled based upon medical improvement.
5. On [REDACTED], claimant filed a request for a hearing to contest the department's negative action.

6. On [REDACTED] the State Hearing Review Team again denied claimant's review application stating in its analysis and recommendation: Evidence supports that the claimant has earned substantially gainful amounts of wages [REDACTED] to current per SSA Administrative Law Judge (ALJ) & AC review and current earnings query. The claimant is currently engaging in substantial gainful activity based on the information that is available in the file. As such, continuing MA-P (20 CFR 416.920(b)) and SDA (BEM 261) are denied secondary to gainful employment. Listings 1.02, 3.03, 4.04, 4.05, 12.03, 12.04 and 12.06 were considered in this determination.
7. The hearing was held on [REDACTED]. At the hearing, claimant waived the time periods and requested to submit additional medical information.
8. Additional medical information was received and sent to the State Hearing Review Team on [REDACTED]
9. On [REDACTED], the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: The claimant had been previously approved for MA-P and SDA benefits by the MRT in [REDACTED]. However, the Social Security ALJ denied her in [REDACTED] because she did not have a continuous 12-month period during which she had not engaged in substantial gainful activity. That decision was upheld by the appeals council on [REDACTED]. Therefore, MA-P and SDA benefits are ceased and medical improvement does not apply. The claimant had a smoker's cough and mild wheezing. She had limited range of motion of the hips and reported pain. Her physical examination was otherwise unremarkable. She is very stressed about her son being in juvenile detention and reports that she does not trust the police. She states that she does not function well. Her speech was clear and understandable. Her thoughts were organized to the subject matter. She has never been psychiatrically hospitalized. It is not clear if the claimant is currently engaging in substantial gainful activity or not, based on the information that is available in the file. She had earnings at least through [REDACTED] and the Social Security ALJ denied her because of her work. However, a medical decision was still made based on the information available. 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 simple, unskilled, light work. A finding about the capacity for prior work has not been made. However, this information is not material because all potentially applicable medical-vocational guidelines would direct a finding of not disabled given the claimant's age, education and residual functional capacity.

Therefore, based on the claimant's vocational profile (younger individual, limited education and history of self-employment); MA-P is denied using Vocational Rule 202.21 as a guide. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.

10. Claimant is a [REDACTED] whose birth date is [REDACTED]. Claimant is 5'7" tall and weighs 180 pounds. Claimant attended the 7th grade and has no GED. Claimant is able to read and write and stated that she does not have basis math skills. She also stated that she could not count money.
11. Claimant last worked in [REDACTED] doing child care. Claimant has also worked as a school lunch aid, in factories, in a store as a clerk and in a restaurant as a cook.
12. Claimant was receiving MA-P and SDA assistance benefits.
13. Claimant alleges as disabling impairments: Heart arrhythmia, hypertension, asthma, hip pain, bipolar disorder, anxiety and schizophrenia/schizoaffective disorder.

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 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).

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 [REDACTED].

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 a DHS 49 form completed on [REDACTED] examination showed the claimant had arrhythmia, bilateral hip pain, anxiety and hypertension. She was 5'9" and 190 pounds. Her blood pressure was 116/80. She was overweight and had a smoker's cough. She had mild wheezing. Range of motion of the hips was limited bilaterally. She had anxiety. The remainder of the examination was within normal limits.

On [REDACTED], the claimant was brought to the office by her daughter. She was depressed, anxious and crying when talking about her son who is in juvenile detention. She continues to be stressed out since her son was placed into juvenile detention. She was alert and well oriented X3. She says that she gets easily angry and frustrated. She says that she does not function well. Diagnosis was bipolar disorder.

A mental status examination dated [REDACTED] showed the claimant had never been psychiatrically hospitalized. The claimant reported that she doesn't trust people, especially the police since her son was arrested. She reported that her daughters do the household chores and pick out her clothes. The claimant was tearful and distressed

throughout the session. She was very depressed. She had appropriate hygiene. Her speech was clear and understandable with moderate cadence and volume. Thoughts were organized to subject matter. She reported hallucinations and paranoia towards police. Diagnoses included schizoaffective disorder, bipolar type with major depressive episodes, generalized anxiety disorder, panic disorder without agoraphobia, post traumatic stress disorder (PTSD) and paranoid personality features (records from DDS).

A mental residual function capacity assessment on the record indicates that claimant is markedly limited in most areas. The examination is dated [REDACTED].

A Social Security Administration Notice of Appeals Council decision dated [REDACTED] indicates that there has been no continuous 12 month period in which the claimant has not been engaged in substantial gainful activity and based on the application for a period of disability and disability insurance benefits filed on [REDACTED], the claimant is not disabled under sections 216(i) and 223(d) of the Social Security Act. Based on the application for supplemental security income filed on [REDACTED], the claimant is not disabled under section 1614(a)(3)(A) of the Social Security Act. This ALJ is bound by the SSA's determination as the decision was made [REDACTED] and the appeals council decision notice to claimant [REDACTED] which was after the application filed in this case.

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 not 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 sedentary 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 child care provider, lunch aid, store clerk or a cook in a restaurant.

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 function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, based upon the claimant's vocational profile of a younger individual with limited education and history of self-employment, MA-P is denied using Vocational Rule 202.21 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.

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 disability and application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a wide range of light or sedentary work even with his impairments. The department has

established its case by a preponderance of the evidence. Claimant does have medical improvement based upon the objective medical findings in the file.

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: [REDACTED]

Date Mailed: [REDACTED]

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.

LYL/jk

cc: [REDACTED]
MAHS