

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-58361
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: September 19, 2012
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on September 19, 2012, from Detroit, MI. Claimant and his mother, [REDACTED] appeared and testified. The Department of Human Services (Department) was represented by [REDACTED].

ISSUE

Whether the Department properly determined that the Claimant is no longer disabled for purposes of continuation of the Medical Assistance (MA or Medicaid) and State Disability Assistance (SDA) program benefits?

FINDINGS OF FACT

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

1. On January 5, 2011, Claimant was approved for Medicaid.
2. On May 7, 2012 the Department issued a Notice of Case Action terminating Claimant's MA and State Disability Assistance (SDA) benefits.
3. On May 15, 2012, Claimant submitted a request for hearing to the Department.
4. The Claimant is twenty-nine years old.
5. The Claimant completed school through the twelfth grade.

6. Claimant last worked in 2010 as a seasonal cashier six hours per week in a T-shirt shop in a shopping mall.
7. Claimant's limitations have lasted for twelve months or more.
8. Claimant suffers from congenitally malformed hands, absence of the right elbow, bipolar disorder, herniated disc and pinched nerve.
9. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

CONCLUSIONS OF LAW

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT).

SDA provides financial assistance for disabled persons and was established by 2004 PA 344. The Department administers SDA pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and RFT.

The Administrative Law Judge concludes and determines that Claimant

IS NOT DISABLED for the following reason (select ONE):

1. Claimant is engaged in substantial gainful activity.
2. Claimant's impairment(s) do not meet the severity and one-year duration requirements.
3. Claimant demonstrates medical improvement that is work-related.
4. Claimant is no longer disabled by virtue of the following *exception* which applies in this case:
 - a. Substantial evidence shows that you are the beneficiary of advances in medical or vocational therapy or technology (related to your ability to work).
 - b. Substantial evidence shows that you have undergone vocational therapy (related to your ability to work).
 - c. Substantial evidence shows that based on new or improved diagnostic or evaluative techniques your impairment(s) is not as

disabling as it was considered to be at the time of the most recent favorable decision.

- d. Substantial evidence demonstrates that any prior disability decision was in error.
- e. A prior determination or decision was fraudulently obtained.
- f. You did not cooperate with us.
- g. Claimant cannot be found.
- h. Claimant failed to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity.

The Administrative Law Judge concludes that Claimant

IS DISABLED for purposes of continuing in the MA program, for the following reasons:

- 1. The Department failed to prove that Claimant's medical impairment(s) improved. 20 CFR Ch. 3, Sec. 416.994(b).
- 2. The Department failed to prove that any of the following exceptions are applicable to Claimant:
 - a. Substantial evidence shows that you are the beneficiary of advances in medical or vocational therapy or technology (related to your ability to work).
 - b. Substantial evidence shows that you have undergone vocational therapy (related to your ability to work).
 - c. Substantial evidence shows that based on new or improved diagnostic or evaluative techniques your impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable decision.
 - d. Substantial evidence demonstrates that any prior disability decision was in error.
 - e. A prior determination or decision was fraudulently obtained.
 - f. You did not cooperate with us.

- g. Claimant cannot be found.
- h. Claimant failed to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity. 20 CFR Ch. 3, Sec. 416.994(b)(3).

Having reviewed the evidence presented, which consists solely of post-eligibility medical information, it is found and concluded that the Department in this case failed to meet its burden to establish that Claimant's medical condition has improved. Indeed, Claimant's testimony is that his condition is, if anything, worse than it was before he became eligible for MA benefits. Claimant's bipolar disorder has worsened, and he was voluntarily hospitalized in [REDACTED], for one week for psychiatric treatment. Claimant currently barely leaves the house at all. Claimant's lower back pain has not improved since his microdiscectomy surgery in [REDACTED], and a second surgery is recommended. Claimant's congenital deformities of his upper extremities limit his ability to lift, and he cannot bend the right arm as there is no elbow joint present.

The Department did not present previous medical records and it did not draw a comparison between Claimant's previous and current conditions. The Department did not establish in what way Claimant's condition has improved. The record taken in its entirety is insufficient to prove medical improvement, which the Department must present in order to terminate Claimant's MA and SDA benefits. *Id.*

In conclusion, based on the Findings of Fact and Conclusions of Law above, Claimant is found to be

NOT DISABLED DISABLED

for purposes of continued participation in the MA and SDA programs. The Department's denial of continuing MA and SDA benefits to Claimant is

AFFIRMED REVERSED

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, and for the reasons stated on the record, finds that Claimant

DOES NOT MEET MEETS

the definition of continued medical disability under the Medical Assistance and SDA program(s).

The Department's decision is

AFFIRMED REVERSED

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstatement Claimant's MA and SDA benefits.
2. Initiate procedures to provide retroactive and ongoing MA and SDA benefits to Claimant at the benefit levels to which he is entitled.
3. Initiate procedures to conduct an administrative review of this case no earlier than October 2013.
4. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 25, 2012

Date Mailed: September 26, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

JL/pf

cc:

