

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

IN THE MATTER OF:



Reg. No.: 201212122
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: November 15, 2012
County: Mecosta

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 November 15, 2012.

ISSUE

Did the department establish at that claimant no longer met the disability standard for Medical Assistance based on disability (MA-P) and State Disability Assistance (SDA) at medical review?

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 an MA-P and SDA recipient who was approved for disability benefits by the Medical Review Team (MRT) in [REDACTED].
2. At medical review, on [REDACTED], the MRT determined that claimant no longer met the MA-P and SDA disability standard.
3. On [REDACTED], the department sent claimant notice that he was denied MA-P and SDA benefits at medical review.
4. On [REDACTED], the department received claimant's hearing request, protesting the denial of MA-P and SDA benefits.
5. The State Hearing Review Team (SHRT) upheld the denial of MA-P and SDA benefits.

6. Claimant has a history of degenerative disc disease causing chronic back pain, recurrent kidney stones, hypertension, and migraine headaches.
7. Claimant has been going to a pain management center for bilateral lumbar medial branch blocks to control his chronic back pain.
8. Claimant is a 34-year-old male with a high school education.
9. Claimant has an unskilled work history.
10. Claimant is approximately 6" and weighs 240 lbs.
11. Claimant was not engaged in substantial gainful activity (SGA) at any time relevant to this matter.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Current legislative amendments to the Act delineate eligibility criteria as implemented by agency policy set forth in program manuals.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Pursuant to the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for those benefits must be reviewed periodically. Before determining that a client is no longer eligible for disability benefits, the department must establish that there has been a medical improvement of the client's impairment(s) 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 decision 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 step asks the question:

- (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 at the first step of the sequential evaluation because he was not engaged in SGA at any time relevant to this matter. Therefore, the analysis continues.

Based on the evidence on the record, Claimant did not have an impairment or combination of impairments which met or equaled a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues.

The next step asks the question if there has been medical improvement. 20 CFR 416.994(b)(5)(ii).

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).

...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).

Step 4. If we found a step 2 in paragraph (b)(5)(ii) of this section that there has been no medical improvement or if we found at step 3 in paragraph (b)(5)(iii) of this section that the medical improvement is not related to your ability to work, we consider whether any of the exceptions in paragraphs (b)(3) and (b)(4) of this section apply. If none of them apply, your disability will be found to continue. If one of the first group of exceptions to medical improvement applies, see step 5 in paragraph (b)(5)(v) of this section. If an exception from the second group of exceptions to medical improvement applies, your disability will be found to have ended. The second group of exceptions to medical improvement may be considered at any point in this process. 20 CFR 416.994(b)(5)(iv).

Step 6. If your impairment(s) is severe, we will assess your current ability to engage in substantial gainful activity in accordance with 416.961. That is we will assess your residual functional capacity based on all your current impairments and consider whether you can still do work you have done in the past. If you can do such work, disability will be found to have ended. 20 CFR 416.994(b)(5)(vi).

Step 7. If you are not able to do work you have done in the past, we will consider one final step. Given the residual functional capacity assessment and considering your age, education, and past work experience, can you do other work? If you can, disability will be found to have ended. If you cannot, disability will be found to continue. 20 CFR 416.994(b)(5)(vii).

The department failed to establish how claimant's medical condition has improved **as it relates to the ability to work**. Claimant has a history of degenerative disc disease, causing chronic back pain, recurrent kidney stones, hypertension, and migraine

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.

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.

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

MAND/kl

cc:

