

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201212889
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: March 14, 2012
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 Wednesday, March 14, 2012. Claimant personally appeared and testified as did her [REDACTED] and authorized representative, [REDACTED].

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 and State Disability Assistance benefit recipient and her MA and SDA cases were scheduled for review in September 2011.
2. Claimant filed the necessary paperwork to complete a redetermination for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On October 21, 2011, the Medical Review Team denied Claimant's application. (Department Exhibit A pages 422-423).

4. On October 27, 2011, the department caseworker sent Claimant notice that her MA and SDA cases would be closed based upon medical improvement.
5. On October 31, 2011, Claimant filed a request for a hearing to contest the department's negative action.
6. On October 13, 2011, the State Hearing Review Team again denied Claimant's Redetermination stating that Claimant is capable of performing a wide range of simple, unskilled, medium work. The State Hearing Review Team commented that the Claimant's impairments do not meet/equal the intent or severity of a Social Security listing and that the medical evidence of record indicates that the claimant retains the capacity to perform a wide range of simple, unskilled, medium work. Therefore, based on the claimant's vocational profile of a younger individual with a high school education, MA-P is denied due to medical improvement using Vocational Rule 203.28 as a guide. SDA is denied per BEM 261 because the nature and severity of the claimant's impairments no longer preclude work activity at the above stated level for 90 days.
7. On July 26, 2011, the claimant was seen by Dr. Prasad for a psychiatric medication review. The claimant was given an Axis I diagnosis of depression NOS rule out bipolar affective disorder. The claimant was also given an Axis II diagnosis of history of borderline personality disorder with suspicion of borderline intellectual functioning. It was noted that the claimant was doing well and that she had fair insight and judgment. (Department Exhibit A pages 31-32).
8. The claimant was also seen on June 14, 2011 for a transfer medication review. The claimant was given an Axis I diagnosis of depression NOS rule out bipolar affective disorder. The claimant was also given an Axis II diagnosis of history of borderline personality disorder with suspicion of borderline intellectual functioning. It was noted that the claimant had fair insight and judgment, her mood was okay, and she maintained a fair eye contact. The claimant did not have any delusions or perceptual disturbances but her knowledge was slightly compromised. (Department Exhibit A pages 33-35).
9. On November 15, 2010, the claimant was admitted to the inpatient psychiatric facility at [REDACTED]. The claimant was admitted for suicidal ideations; specifically walking into traffic. She was given an Axis I diagnosis upon admission of major depressive disorder, recurrent, without psychotic features with resolved suicidal ideations and generalized anxiety disorder and was assigned a GAF of 25. Upon discharge, her Axis I diagnosis remained the same but she was assigned a GAF of 45. (Department Exhibit A pages 42-52).

10. Claimant was receiving Medicaid and State Disability Assistance at the time of her review.
11. Claimant alleges as disabling impairments bipolar disorder, depression, panic/anxiety attacks, hearing, loss, and neuropathy/nerve damage in both feet.
12. Claimant is a 43 year old woman whose birth date is [REDACTED]. Claimant is 5' 4" tall and weighs 265 pounds. Claimant is a high school graduate and was involved in special education all throughout high school. She has a history of light to medium unskilled to semiskilled employment.
13. Claimant last worked in 2007 as a [REDACTED].
14. As of the date of hearing, the claimant had not applied for Social Security Disability benefits.

CONCLUSIONS OF LAW

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 Reference Tables Manual (RFT).

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

- (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 from this step because she has not engaged in substantial gainful activity at any time relevant to this matter. Furthermore, the evidence on the record fails to establish that Claimant has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues. 20 CF 416.994(b)(5)(ii).

The next step asks the question if there has been 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).

If there is a decrease in medical severity as shown by the symptoms, signs and laboratory findings, we then must determine if it is related to your ability to do work. In paragraph (b)(1)(iv) of this section, we explain the relationship between medical severity and limitation on functional capacity to do basic work activities (or residual functional capacity) and how changes in medical severity can affect your residual functional capacity. 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).

The State Hearing Review Team upheld the denial of SDA and MA benefits on the basis that Claimant's medical condition has improved. Pursuant to the federal

regulations, at medical review, the agency has the burden of not only proving Claimant's medical condition has improved, but that the improvement relates to the client's ability to do basic work activities. The agency has the burden of establishing that Claimant is currently capable of doing basic work activities based on objective medical evidence from qualified medical sources. 20 CFR 416.994(b)(5).

In this case, the agency has not met its burden of proof. The agency has not provided sufficient evidence to show that Claimant's improvement relates to her ability to do basic work activities. Although the department has shown that the claimant has made improvements in her mental condition, the department has failed to show that those improvements relate to her ability to do basic work related activities. The agency provided no objective medical evidence from qualified medical sources that show Claimant is currently capable of doing basic work activities. Accordingly, the agency's SDA and MA eligibility determination cannot be upheld at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the agency failed to establish that Claimant no longer meets the SDA or MA disability standard.

Accordingly, the agency's determination is **REVERSED**.

It is SO ORDERED.

/s/
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 12, 2012

Date Mailed: April 13, 2012

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.

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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.

CSS/tb

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