

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-39035
Issue No: 2009

[REDACTED]

ADMINISTRATIVE LAW JUDGE:

[REDACTED]

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, along with [REDACTED], [REDACTED], [REDACTED] provided testimony on behalf of the department.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer disabled and deny his review for Medical Assistance (MA-P) 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 an MA-P benefit recipient and had a review scheduled for [REDACTED]
2. On [REDACTED], the Medical Review Team denied claimant's case stating that claimant had medical improvement.
3. On [REDACTED], the department caseworker sent claimant notice that his Medical Assistance case would be closed based upon medical improvement.
4. On [REDACTED], claimant filed a request for a hearing to contest the department's negative action.

5. On [REDACTED], the State Hearing Review Team upheld the MRT's determination to close claimant's case due to medical improvement.
6. At the time of hearing, claimant was a [REDACTED] whose birth date is [REDACTED]. Claimant is 6'2" tall and weighs 210 pounds. Claimant completed high school and has a military history.
7. Claimant last worked in [REDACTED] as a maintenance person for a [REDACTED] and for rental properties.
8. Claimant alleges lower back pain, hypertension and diverticulitis as disabling impairments.
9. Claimant had a bowel resection in [REDACTED] secondary to diverticulitis and subsequent peritonitis. Claimant was septic on antibiotic therapy and was comatose.
10. Physical examination on [REDACTED] found the abdomen to have no organomegaly or masses. Bowel sounds were normal. There was mild tenderness with mild voluntary guarding. Claimant's weight remained relatively stable. He did not appear frail or cachectic. The clinician indicated that supportive care and dietary management would be indicated. The claimant did have some subtle sensory loss in the left leg, but his power was stable. This may have been aggravated from lying in bed for prolonged periods of time after his surgery.

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 (RFT).

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, 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). In this case, claimant’s impairments do not equal or meet the severity of an impairment listed in Appendix 1, so the analysis will continue.

In the second 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)(ii). 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 3 (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 4 in the sequential evaluation process.

In the instant case, this Administrative Law Judge finds that claimant does have medical improvement and his medical improvement is related to the claimant’s ability to perform substantial gainful activity. The claimant’s surgery has definitely provided him with medical improvement. The claimant’s physical examination of [REDACTED] was essentially normal, with only some mild abdominal tenderness and mild voluntary guarding found on exam. Claimant’s weight was stable and his lower back pain was managed with medication. This Administrative Law Judge finds that the claimant’s medical improvement is related to his ability to perform substantial gainful activity.

At Step 4, if no medical improvement was found at Step 2 or if the medical improvement is not related to an ability to work, we consider whether any exceptions apply. 20 CFR 416.994(b)(5)(iv). This step is not applicable to claimant as medical improvement as found.

In the fifth 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)(v). 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 6 in the sequential evaluation process. In this case, this Administrative Law Judge finds the claimant continues with severe impairments and moves to Step 6 of the analysis.

In the sixth 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)(vi). 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 do work he/she has done in the past. This Administrative Law Judge finds claimant remains capable of performing at least light work even with his impairments. This Administrative Law Judge finds that claimant's past work history as a mechanic was medium in exertional level, per the Dictionary of Occupational Titles. Therefore, the claimant would not be capable of performing his previous relevant work history. Therefore, the analysis will continue to the last step.

In the seventh step of the analysis, the trier of fact will assess if the claimant is able to perform other work, considering your age, education and past work experience. 20 CFR 416.994 (b)(5)(vii). Claimant is a younger individual (age [REDACTED], with a high school education and a history of semi-skilled work. Therefore, based on claimant's vocational profile, he would be denied MA-P using medical-vocational rule 202.21 as a guide.

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 based upon medical improvement.

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 for Medical 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/ _____
[REDACTED]
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.

SLM/jk

cc:



MAHS