

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-39867
Issue Nos.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: May 23, 2012
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on May 23, 2012, by teleconference in Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Was the closure of claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) case for lack of disability correct?

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.
2. Claimant is 22 years old.
3. Claimant has a 12th grade education.
4. Claimant is not currently working.
5. Claimant has an IQ of 68 as well as mathematical learning disorder according to both treating source and independent examinations.

6. On January 18, 2012, the Appeals Council for the Social Security Administration (SSA) issued a final decision in claimant's pending SSI case, denying disability.
7. On March 7, 2012, claimant's MA-P and SDA case was closed after medical review.
8. On February 2, 2012, the Medical Review Team denied MA-P and SDA, stating that claimant did not meet the disability requirements for SDA, and claimant was not eligible for MA-P, per policy for a final SSA decision.
9. On March 7, 2012, claimant was sent a notice of case action.
10. On March 14, 2012, claimant filed for hearing.
11. On April 20, 2012, the State Hearing Review Team (SHRT) denied MA-P, stating that claimant was capable of other work.
12. On May 23, 2012, a hearing was held before the Administrative Law Judge.

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 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 (Department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and BRM.

Federal regulations require that the Department use the same operative definition of the term "disabled" as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905.

This is determined by a five-step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order

according to the five-step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps is necessary. 20 CFR 416.920.

However, per policy in BEM 260, a final decision from the SSA with regards to SSI disability is binding on claimant's MA-P case, if the case was reviewed by the SSA on the same disability grounds, and claimant has not alleged a worsening or change in her case that the SSA had not made a decision on. In the current case, claimant does not allege any of these exceptions. Therefore, the SSA decision must be binding on claimant's MA-P case, and the Department was correct when it found that claimant no longer met the disability standards for the MA-P program.

This does not mean that the decision is binding on claimant's SDA case. In fact, policy in BEM 261 shows that a claimant may still be eligible for SDA even if the primary reason for the SDA—in the current case, claimant's receipt of MA-P—no longer exists. The Department conducted a *de novo* review of the case in order to determine disability for the SDA program. While the Administrative Law Judge believes that there is some argument as to whether a *de novo* review or a medical improvement review of the case was appropriate, this argument is moot, as claimant argued, if the claimant's impairment rises to that of a listings level, as explained below.

Therefore, the Administrative Law Judge will proceed with an examination of claimant's disability per the standards for the SDA program.

The first step that must be considered is whether the claimant is still partaking in Substantial Gainful Activity (SGA). 20 CFR 416.920(b). To be considered disabled, a person must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2012 is \$1,690. For non-blind individuals, the monthly SGA amount for 2012 is \$1,010.

In the current case, claimant has presented competent material evidence that she is not engaging in SGA and, therefore, passes the first step.

The second step that must be considered is whether or not the claimant has a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "basic work activities" means the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;

- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting.

20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, claimant has presented competent material evidence of an impairment that meets durational requirements and, therefore, passes the second step.

In the third step of the sequential evaluation, we must determine if the claimant’s impairment is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.925. This is, generally speaking, an objective standard; either claimant’s impairment is listed in this appendix, or it is not. However, at this step, a ruling against the claimant does not direct a finding of “not disabled”; if the claimant’s impairment does not meet or equal a listing found in Appendix 1, the sequential evaluation process must continue on to step four.

The Administrative Law Judge finds that claimant’s medical records contain medical evidence of an impairment that meets or equals listing 12.05 C, after considering claimant’s treating source limitations, rehabilitation records, medical records, testimony, and the undersigned’s own observations of claimant. Claimant has an IQ of 68, and an additional mental impairment—a mathematical learning disability documented by treating and independent sources—that imposes a significant work-related limitation or function. Therefore, claimant is found disabled at step three, and the Department erred when it closed claimant’s SDA case for lack of disability.

With regard to steps 4 and 5, when a determination can be made at any step as to the claimant’s disability status, no analysis of subsequent steps is necessary. 20 CFR

416.920. Therefore, the Administrative Law Judge sees no reason to continue his analysis, as a determination can be made at step 3.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is not disabled for the purposes of the MA program. Claimant, however, is disabled for the purposes of the SDA program. Therefore, the decision to close claimant's MA-P case was correct. The decision to close claimant's SDA case, however, was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, **AFFIRMED IN PART** and **REVERSED IN PART**.

The Department is **ORDERED** to:

1. Reinstate claimant's SDA case retroactive to the date of negative action and award any benefits to which claimant is otherwise entitled.
2. Initiate a review of claimant's disability case in July 2013.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2012

Date Mailed: July 9, 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:

2012-39867/RJC

- 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

RJC/pf

cc:

