

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

IN THE MATTER OF:



Reg. No: 201254228
Issue No: 2009
Case No: [REDACTED]
Hearing Date: August 14, 2012
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. Claimant's request for a hearing was received on May 18, 2012. After due notice, a telephone hearing was held on August 14, 2012. The Claimant personally appeared and provided testimony.

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny his review application 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. On June 3, 2010, the Claimant was found to be disabled by the Michigan Administrative Hearing System (MAHS) (formerly known as the State Office of Administrative Hearings and Rules).
2. The Department initiated a routine review of the Claimant's eligibility for Medical Assistance (MA) in August of 2010.
3. On May 9, 2012, the Medical Review Team (MRT) determined that the Claimant no longer met the disability standard for Medical Assistance (MA-P) because it determined that his medical condition has improved to the point that he is no longer considered disabled.
4. On May 11, 2012, the Department sent the Claimant notice that it would close his Medical Assistance (MA) benefits due to the determination of the Medical Review Team (MRT).

5. On May 18, 2012, the Department received the Claimant's hearing request, protesting the denial of disability benefits.
6. On July 5, 2012, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of MA-P benefits.
7. The Claimant is a 57-year-old man whose birth date is [REDACTED]. Claimant is 5' 11" tall and weighs 160 pounds. The Claimant is a [REDACTED]. The Claimant is able to read and write and does have basic math skills.
8. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
9. The Claimant has past relevant work experience as a construction worker where he was required to work with cement, bricks, and lift as much as 100 pounds.
10. The Claimant alleges disability due to a broken leg and neck, heart, spine impairments.
11. The objective medical evidence indicates that the results of a gated single-photon emission computed tomography (SPECT) Cardiolite myocardial perfusion scan and exercise Cardiolite myocardial scan revealed that the Claimant has average exercise tolerance, a stress test was negative by electrocardiography (EKG) criteria, and he has normal myocardial perfusion and function.
12. The objective medical evidence indicates that the results of an echocardiogram revealed that the Claimant's left ventricle has normal size, normal function, and an ejection fraction of 60%. The test also revealed that left a normal ventricular filling pattern, mild concentric hypertrophy, a normal left atrium, a normal aortic valve trileaflet with no regurgitation, a normal mitral valve with mild regurgitation, a normal tricuspid valve with mild regurgitation, and a normal pulmonic valve with mild pulmonic regurgitation.
13. The objective medical evidence indicates that the Claimant has a history of stroke.
14. The objective medical evidence indicates that the Claimant suffered a distal tibial shaft fracture of his left leg and underwent a closed reduction and insertion of an intramedullary nail to his left tibia.
15. Medical reports indicate that on April 14, 2011, the Claimant was found to have a full range of motion about his cervical spine, and a full range of motion throughout his body except for he lower left leg.

16. The objective medical evidence indicates that the Claimant suffers from cervical and lumbar osteoarthritic multilevel facet joint spondylotic pain and post cervical and lumbosacral radicular pain.
17. The objective medical evidence indicates that the results of an electroencephalogram (EEG) are considered normal and appropriate for the Claimant's age and the medications he is taking. There were no definite focal or generalized epileptiform features seen.
18. The Claimant is a [REDACTED] and is capable of driving an automobile.
19. The Claimant is capable of preparing meals and shopping for groceries.
20. The Claimant is capable of washing clothes and wiping counters.
21. The Claimant is capable of showering and dressing himself.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance has been denied. MAC R 400.903. Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 (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 Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance and State Disability Assistance (SDA) programs. Under SSI, disability is defined as:

...inability to do any substantial gainful activity 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.

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. 20 CRR 416.994.

First, the Claimant's impairments are evaluated to determine whether they fit the description of a Social Security Administration disability listing in 20 CFR Part 404, Subpart P, Appendix 1. A Claimant that meets one of these listing that meets the duration requirements is considered to be disabled.

The Claimant's impairment failed to meet the listing for his heart under section 4.00 Cardiovascular System. The objective medical evidence indicates that Claimant has an average tolerance to exercise, a stress test was negative, left ventricle ejection fraction is at 60%, and his heart has mild regurgitation. The objective medical evidence does not support a finding of recent heart failure.

The Claimant's impairment failed to meet the listing for his back and neck under section 1.04 Disorders of the spine, because the objective medical evidence does not demonstrate that the Claimant suffers from nerve root compression resulting in loss of motor strength or reflexes, or resulting in a positive straight leg test. The objective medical evidence does not demonstrate that the Claimant has been diagnosed with spinal arachnoiditis. The objective medical evidence does not support a finding that the Claimant's impairment has resulted in an inability to ambulate effectively. The objective medical evidence indicates that the Claimant has a full range of motion about his cervical spine. The objective medical evidence indicates that the results of an electroencephalogram (EEG) are considered normal and appropriate for the Claimant's age and the medications he is taking

The Claimant's impairment failed to meet the listing for a broken leg under section 1.02 Major dysfunction of a joint because the objective medical evidence does not demonstrate that the Claimant's impairment involves a weight bearing joint resulting in inability to ambulate effectively, or an impairment of an upper extremity resulting in inability to perform fine and gross movements effectively. The objective medical evidence does not support a finding that the Claimant's broken leg has not healed properly.

The medical evidence of the Claimant's condition does not give rise to a finding that he would meet a statutory listing in federal code of regulations.

Second, the Claimant's impairments are evaluated to determine whether there has been medical improvement as shown by a decrease in medical severity. 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).

The objective medical evidence indicates that the Claimant suffered a distal tibial shaft fracture of his left leg and underwent a closed reduction and insertion of an intramedullary nail to his left tibia.

On June 3, 2010, the Michigan Administrative Hearing System (MAHS) (formerly known as the State Office of Administrative Hearings and Rules) made a determination that the Claimant was disabled based on mental impairments. This determination is the most recent favorable medical decision that the Claimant was disabled.

The objective medical evidence does not support a finding that there has been improvement of the Claimant's mental impairments since his most recent favorable medical decision that the Claimant was disabled. The State Hearing Review Team (SHRT) failed to address mental impairments in its assessment of the Claimant's alleged improvements.

This Administrative Law Judge finds that Department has failed to establish that the Claimant is not disabled based on medical improvement. Therefore, non-disability has not been established at by the competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that non-disability was not medically established.

Accordingly, Medical Assistance (MA) termination is **REVERSED** and reinstatement of benefits **ORDERED**.

Medical review suggested in May 2013.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 11, 2012

Date Mailed: September 11, 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 60 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 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.

KS/tb

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