

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-5457
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: January 10, 2012
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 dated October 10, 2011. After due notice, a telephone hearing was held on January 10, 2012 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's mother). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Supervisor).

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 benefit recipient and his Medical Assistance case was scheduled for review in October, 2011.
- (2) On April 4, 2011, claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
- (3) On May 26, 2011, the Medical Review Team denied claimant's application stating that claimant had medical improvement.

- (4) On October 6, 2011, the department caseworker sent claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.
- (5) On October 10, 2011, claimant filed a request for a hearing to contest the department's negative action.
- (6) On December 9, 2011, the State Hearing Review Team again denied claimant's review application stating that claimant is capable of performing a wide range of unskilled work and that although a finding about the capacity has not been made, the information is not material because all potentially applicable medical-vocational guidelines show Claimant is not disabled given his age, education and residual functional capacity (RFC). MA-P was denied using Vocational Rule 204.00 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.
- (7) The hearing was held on January 10, 2012.
- (8) Claimant is a 28-year-old whose birth date is [REDACTED]. Claimant is 6' 0" tall and weighs 150 pounds. Claimant is a high school graduate (special education). Claimant is able to read and write and does have basis math skills.
- (9) Claimant last worked in 2005 as a custodian in Tennessee. Claimant has also worked in food service at [REDACTED].
- (10) Claimant was receiving SDA in the amount [REDACTED] per month.
- (11) Claimant alleges as disabling impairments: major depressive disorder, mood disorder and attention deficit hyperactivity disorder (ADHD).
- (12) On March 24, 2011, Claimant was brought by police to the [REDACTED] Emergency Room after he stabbed himself in the left arm with a ball point pen. The ER doctors characterized this as an apparent suicide attempt following an altercation with his mother. Claimant's injuries were not serious and he was diagnosed with major depression with suicidal thoughts. Claimant was discharged to the [REDACTED] crisis facility (a residential treatment facility).
- (13) On March 25, 2011, Claimant had a psychiatric evaluation at Community Mental Health (CMH) of [REDACTED]. [REDACTED] Nurse Practitioner (NP), noted that Claimant had a long history of anger and depression. He also found Claimant had ADHD, substance abuse, legal problems and was not presently taking any prescribed medications. Claimant had been

taking Xanax however. Nurse Burt started Claimant on Zyprexa 10 mg for mood stability and Klonopin (1 mg) for anxiety.

- (14) On April 18, 2011, Claimant was seen by [REDACTED] again in follow up. [REDACTED] decided to increase Claimant's Zyprexa up to 20 mgs and to continue the Klonopin (1 mg).
- (15) On June 14, 2011, Claimant was seen by Physician's Assistant (PA) [REDACTED] treatment plan was to continue Claimant on his prescribed medications. She also added Seroquel XR (200 mg). PA Lee discussed with Claimant the ramifications of his current drug use.
- (16) On July 25, 2011, Claimant was seen again by [REDACTED] in follow up. [REDACTED] found that Claimant was sleeping better after addition of Seroquel (although he was a bit fatigued). She also noted that Claimant's mood has improved with respect to his anger and that he states he has been doing much better on the medications. [REDACTED] treatment plan was to continue on the medications and re-check in one to two months. She also noted that his labs were requested for the next visit.

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 MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 he 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 CFR 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. Claimant was approved for SDA and MA benefits after being diagnosed with major depressive disorder, attention deficit disorder, mood disorders and anti-social personality disorders. 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 provided no evidence that indicates Claimant's improvement relates to his ability to do basic work activities. In fact, the objective medical evidence tends to show that although Claimant's has been sleeping better on his medications, his mood has improved and that he is generally doing much better on his medications, Claimant still suffers from the same symptoms that was present at the time of the original disability determination. The Claimant's treatment plan indicated that Claimant must be re-checked in one to two months. 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.



C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 1/31/12

Date Mailed: 1/31/12

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.

CAP/ds

■ [REDACTED]