

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-56683
2012-65486

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer disabled and deny his 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 [REDACTED]
2. On [REDACTED] claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On [REDACTED], the Medical Review Team denied claimant's application stating that claimant had medical improvement.
4. On [REDACTED] claimant filed requests for a hearing to contest the department's negative action. Cases [REDACTED]-[REDACTED] were consolidated herein as they cover the same period for Medical Assistance and State Disability Assistance benefits.

5. On [REDACTED], the department caseworker sent claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.
6. On [REDACTED] the State Hearing Review Team again denied claimant's review application stating in its recommendation: The claimant was denied for Social Security Disability benefits on [REDACTED]. this decision is final and binding. The application date for MA-P benefits is prior to this final and binding SSI determination. Therefore, MA-P and retroactive MA-P benefits are denied per BEM 260.
7. The hearing was held on [REDACTED]. At the hearing, claimant waived the time periods and requested to submit additional medical information.
8. Additional medical information was received and sent to the State Hearing Review Team on [REDACTED]
9. On [REDACTED] the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation: The prior MRT and SHRT determinations simply cited a final Social Security Administration Law Judge decision dated [REDACTED]. While BEM 260 does direct that SSA final decisions are binding, a review of all pertinent evidence must still be made. The medical evidence of record indicates that the claimant's condition has not been of a severe enough nature to prevent the performance of gainful activities. It is reasonable that the claimant would be limited to the performance of simple and repetitive tasks. While the newly presented evidence by the claimant is incomplete, the added medical evidence from the SSA file is from the same time period. The claimant is not currently engaging in substantial gainful activity based on the information that is available in t he file. The claimant's impairments/combination of impairments does not meet/equal the intent or severity of a Social Security Administration listing. The medical evidence of record indicates that the claimant retains the capacity to perform simple and repetitive tasks. The claimant has a history of less than gainful employment. As such, there is no past work for the claimant to perform, nor are there past work skills to transfer to other occupations.

Therefore, based on the claimant's vocational profile (25 years old, at least a high school education and a history of less than gainful employment); continuing MA-P is denied, 20 CFR416.920 (e&g), using Vocational Rule 204.00 as a guide. Continuing SDA is denied per BEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days. Retroactive MA-P was not considered as part of the continuing MA-P and SDA only review. Listings 12.02, 12.03, 12.04, 12.05 and 12.08 were considered in this determination.

10. Claimant is a [REDACTED] male whose birth date is [REDACTED]. Claimant is 6'0" tall and weighs 420 pounds. Claimant is a high school graduate and has one year of college. Claimant is able to read and write and does have basis math skills.
11. Claimant last worked in [REDACTED] for one month as a stock person and also as at the produce counter. Claimant has also worked at a temporary job sorting parts.
12. Claimant alleges as disabling impairments: Asperger's syndrome, depression and bipolar disorder as well as hearing voices, anger management, explosive disorder, schizoaffective disorder and social phobia.

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 or her claim for assistance has been denied. MAC R 400.903(1). 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 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).

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, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). In this case, the claimant is not engaged in substantial gainful activity and has not worked since 2009.

Secondly, 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).

The objective medical evidence in the record indicates that a psychiatric evaluation from [REDACTED] indicates that a mental status examination showed a rather obese white male looking his stated age who was cooperative, verbal and coherent. Mood was euthymic and affect was appropriate. The patient denied any hallucinations, visual or auditory. He did mention about having some sort of energy when he is upset and if he walks on the streets where the lights are on, the lights go off. The patient was too vague and non-specific about that. He was oriented to time, person and place. Memory was intact and recall was two objects out of three. The patient was asked to name the past few presidents; he stated George Bush, Bill Clinton, George Bush, Reagan, Nixon and Abraham Lincoln. When he was asked to name five large cities; he stated, Seattle, Los Angeles, New York, Chicago and Detroit. When he was asked about the old saying “do not cry over spilled milk;” he stated for small things do not get upset about it and move on. When he was asked to subtract 7’s from 100; he stated 93, 86, 79, 72 and 65. No over though disorder was noted and the patient has no insight and his practical judgment is poor. The patient stated that all he does is watch TV and play games and that’s how he spends most of his time. He was diagnosed with history of ADHD, rule out schizophrenic illness of schizoaffective disorder, rule out passive dependant personality and he had an Axis V and GAF of 50 (Pg. A16).

A [REDACTED] neuro-psychological evaluation indicates that claimant is in need of ongoing psychiatric care. He has an above average psychometric intelligence with no appreciable discrepancy noted between his verbal and non verbal intellectual competencies. Sensory motor examination was unremarkable. His performance was adequate on a psychometric measure of attention. In the aggregate, the test results

reflect well developed neuro-cognitive abilities. Claimant received an unfavorable decision from the SSA on [REDACTED] which indicated that claimant is not disabled prior to [REDACTED], the day he turned age 22. He is not disabled under Section 1614(a)(3)(A) of the Social Security Act, on the application filed on [REDACTED].

At Step 2, claimant's impairments do not equal or meet the severity of an impairment listed in Appendix 1.

In the third 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)(iii). 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 4 (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 5 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.

Thus, this Administrative Law Judge finds that claimant's. If there is a finding of medical improvement related to claimant's ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth 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)(vi). 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 7 in the sequential evaluation process. In this case, this Administrative Law Judge finds claimant can perform at least sedentary work even with his impairments. This Administrative Law Judge finds that claimant can perform any level of work even with his impairments as he has no physical impairments.

In the seventh 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)(vii). 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 still do work he/she has done in the past. In this case, this Administrative Law Judge finds that claimant could probably perform his past work as a produce stock person or as a parts sorter in a factory.

In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, based upon the claimant's vocational profile of a younger individual age 25, with at least a high school education and a history of less than gainful employment, MA-P is denied using Vocational Rule 204.00 as a guide. Claimant can perform other work in the form of light work per 20 CFR 416.967(b). 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 and State Disability Assistance benefits based upon medical improvement.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. PEM, Item 261, page 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

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 and application for Medical Assistance, retroactive Medical Assistance and State Disability 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/ _____
Landis Y. Lain
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.

LYL/jk

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