

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-58365
Issue No: 2009; 4031

[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 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 her Medical Assistance case was scheduled for review in [REDACTED].
2. In [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], the department caseworker sent claimant notice that her Medical Assistance case would be cancelled based upon medical improvement.
5. On [REDACTED], claimant filed a request for a hearing to contest the department's negative action.

6. On [REDACTED], the State Hearing Review Team again denied claimant's review application stating in its analysis and recommended decision: The claimant has low platelet levels. However, there have been no reports of blood transfusions or intracranial bleeding. The objective medical evidence presented does not establish a disabling mental or physical impairment that would preclude basic work activity. The medical evidence of record does not document a mental/physical impairment(s) that significantly limits the claimant's ability to perform basic work activities. Therefore, MA-P is denied per 20 CFR 416.921(a). Retroactive MA-P was considered in this and is also denied. SDA is denied per PEM 261 due to lack of severity.
7. Claimant is a [REDACTED] whose birth date is [REDACTED]. Claimant is 5'3 1/2" tall and weighs 223 pounds. Claimant is a high school graduate. Claimant is able to read and write and does have basis math skills.
8. Claimant has never worked at a job, but did attend an [REDACTED].
9. Claimant was receiving MA and SDA benefits.
10. Claimant alleges as disabling impairments: Idiopathic Thrombocytopenic Purpura, hypertension, headaches and pain in her legs, back and chest. Claimant alleges no disabling mental impairments.

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 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 never worked at any job.

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 according to lab results from [REDACTED], platelet level was 38. The physical examination on [REDACTED] reported normal range of motion of all joints.

An office visit dated [REDACTED] indicates that claimant was 62.5 tall and weighed 229.8 pounds. Her BMI was 41.84 and her body surface area was 1.04. Her temperature was 99.2 degrees, pulse was 80-regular, respirations were 18 and blood pressure was 122/84. Claimant had no pain (Pg. 84). She was well nourished, well hydrated and in no acute distress (Pg. 86). Her eyes had extraocular movement, conjunctivae and lids were normal. The pupils were equal, round, reactive to light and accommodation. In the ear, nose & throat area, her external ears were normal, no lesions or deformities. Otoscopy: canals clear, tympanic membranes intact, no fluid.

Her hearing was grossly intact. Nasal: mucosa, septum and turbinates erythematous clear drainage present. Lip/teeth/gums had normal dentition, no gingival inflammation, no labial lesions. In the pharynx, the tongue was normal, posterior pharynx without erythema or exudate. The neck was supple without lymphadenopathy, no masses, trachea midline, and no nuchal rigidity. The thyroid had no nodules, masses, tenderness or enlargement. The back had no flank pain, no costovertebrals angle pain to percussion. The respiratory effort was unlabored, no intercostal retractions or use of accessory muscles. Auscultation was clear, no rales, rhonchi or wheezes. Cardiovascular auscultation, regular rate and rhythm, S1, S2, no murmur, rub or gallop. Carotid arteries had no bruits. Pedal pulses were 2+, symmetric. Peripheral circulation had normal capillary refill. In the gastrointestinal area, the abdomen was soft, non-tender, no masses, bowel sounds normal. The liver and spleen had no enlargement or nodularity and there were no hernias. The neck had no cervical adenopathy. The skin on inspection had no rashes, lesions or ulcerations. Upon palpation, there were no subcutaneous nodules or induration. Musculoskeletal gait and station were normal, can undergo exercise testing and/or participate in exercise program. The digits and nails had no clubbing, cyanosis, petechiae or nodes. The head and neck had normal alignment and mobility. The spine, ribs and pelvis had normal alignment and mobility, no deformity. Normal range of motion and strength in right and left upper extremities with no joint enlargement or tenderness (Pg. 87). Right and left upper extremities had normal strength, no joint enlargement or tenderness and normal range of motion. Cranial nerves II-XII were grossly intact. Reflexes were 2+ symmetric patella and brachial, DTR reflexes, sensation was intact. The mental status judgment, insight was intact. Orientation, she was oriented to time, place and person. Her memory was intact for recent and remote events. Her mood and affect she had no depression, anxiety or agitation (Pg. 88).

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 her 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 did not perform any past work and has been a student only.

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 22, with no past work experience, MA-P is denied using Vocational Rule 202.21 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

cc:

[REDACTED]

MAHS