

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-6721
Issue No: 2009; 4031
[REDACTED]
Hearing Date: February 7, 2013
Kent County DHS

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 February 7, 2013. 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 on October 31, 2011.
2. On October 4, 2011, claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On September 19, 2012, the Medical Review Team denied claimant's application stating that claimant had medical improvement pursuant to Medical Vocational Rule 202.21 with a sit/stand option.
4. On October 1, 2012, the department caseworker sent claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.

5. On October 10, 2012, claimant filed a request for a hearing to contest the department's negative action.
6. On December 5, 2012, the State Hearing Review Team again denied claimant's review application stating in its analysis and recommendation: the claimant has a history of diabetes and Addison's disease with episodes of hypoglycemia. However, his diabetes/Addison's have been relatively controlled on his insulin pump. The claimant's condition has improved. His examination was unremarkable. He had history of depression and anxiety. He admitted to feeling paranoid and he was somatically preoccupied but his thought processes were relevant, logical and connected. The claimant has had medical improvement with his insulin pump. The claimant is not currently engaging in substantial gainful activity based on the information that is available in file. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform at least a wide range of simple, unskilled, light work. A finding about the capacity for prior work has not been made. However, this information is not material because all potentially applicable medical vocational guidelines would direct a finding of not disabled given the claimant's age, education and residual functional capacity. Therefore, based on the claimant's vocational profile (younger individual, college education and history of semi-skilled/skilled work), MA-P is denied due to medical improvement and using Vocational Rule 202.21 as a guide. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would no longer preclude work activity at the above stated level for 90 days.
7. The hearing was held on February 7, 2013. At the hearing, claimant waived the time periods and requested to submit additional medical information.
8. The record was left open until March 7, 2013 to allow for the submission of additional medical information. No new information was submitted by claimant and the record was closed March 18, 2013 and this Administrative Law Judge proceeded to decision.
9. Claimant is a 32-year-old man whose birth date is [REDACTED]. Claimant is 6' tall and weighs 160 pounds. Claimant has a bachelor's degree in math. Claimant is able to read and write and does have basic math skills.
10. Claimant last worked March, 2011 to August, 2011 in a casino as a blackjack dealer. Claimant has also worked as a teacher from 2008-2010 and in retail as a cashier.

11. Claimant alleges as disabling impairments: Addison's disease, diabetes mellitus type I, low blood pressure and anxiety.

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 August, 2011.

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 the claimant was admitted July 8, 2010 with uncontrolled diabetes and adrenal insufficiency (p 277). Discharge diagnoses included Addison disease with crisis likely secondary to a viral illness, type I diabetes-uncontrolled-currently on insulin pump, acute kidney injury improved, hyperkalemia and hyponatremia secondary to dysphonia and crisis, which was improved (p 285). The claimant was admitted again August 10, 2010 with slurring speech and altered mental status (p 227). The claimant reported that when he woke up, he realized his insulin pump had come out, so he fixed it and went back to bed. When he woke up again, he had nausea, vomiting, dizziness and heavy breathing (p 206). Assessment was Addison disease with acute crisis (p 208). The claimant was admitted again August 11, 2011 with an Addison crisis (p 69). A mental status dated April 2, 2012 showed the claimant was unshaven and his grooming and hygiene were good. He was spontaneous. His speech was clear, coherent and fluent. His thought processes were relevant, logical and connected. He denied delusions, hallucinations and obsessions. He did admit to feeling paranoid and uncomfortable in public. He was somatically preoccupied with sleep disturbances and chronic pain (p 37). His affect was depressed. He reported that he has always been somewhat withdrawn. Diagnoses included major depressive disorder and anxiety disorder (p 38). An examination dated July 30, 2012 showed the claimant has episodes of hypoglycemia but stated that had stabilized since being placed on the insulin pump (p 40). He was 72" and 178 lbs. His examination was basically unremarkable. The doctor concluded that the claimant's diabetes and Addison's disease appear to be relatively controlled on his insulin pump. He did not have any findings of sequela on examination and he reported a weight gain of 20 lbs over the last year (p 44).

At Step 2, claimant's impairments do equal or meet the severity of an impairment listed in Appendix 1. Claimant has a pancreatic gland disorder of diabetes mellitus type I. Type I diabetes mellitus is an absolute deficiency of insulin production that commonly begins in childhood and continues through adulthood. Treatment of type I diabetes mellitus always requires lifelong daily insulin. In the instant case, claimant does wear an insulin pump. Without the insulin pump, his diabetes mellitus, type I would not be controlled. Though he does have some decrease in medical severity, and his condition has stabilized, based upon being placed on the insulin pump, his condition is permanent. Claimant did testify on the record that he had a seizure September, 2012, however, there is no evidence contained in the file in support of his allegation. Claimant

did testify that he could maybe do some office work but he has no office skills. In this instant case, this Administrative Law Judge does find that this claimant does have some medical improvement, but his medical improvement is not related to his ability to perform substantial gainful activity. This Administrative Law Judge finds that claimant continues to meet listing 9.06/9.08

This Administrative Law Judge does find that claimant has some slight medical improvement in his case. However, the department has not established that claimant has medical improvement which is sufficient to allow claimant to perform substantial gainful activity. The department has not 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 meet the definition of disabled under the MA-P program and because the evidence of record does establish that claimant is unable to work for a period exceeding 90 days, the claimant does 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 not 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 and State Disability Assistance benefits. In the instant case, claimant requires continual treatment to stabilize his condition, type I diabetes mellitus and adrenal condition and there has been no evidence provided on the record that claimant can perform a wide range of light or sedentary work with his impairments. The department has not established its case by a preponderance of the evidence. Claimant does not have medical improvement based upon the objective medical findings in the file to perform substantial gainful activity.

Accordingly, the department's decision is **REVERSED**. The department is ORDERED to reinstate claimant's October 4, 2011 Medical Assistance and State Disability Assistance benefits application and open an ongoing case for claimant in accordance with this decision, if claimant is otherwise eligible for the benefits. The department shall inform the claimant of their determination in writing.

A medical review should be scheduled for March, 2014. The department should check to see if claimant is in current payment status or not. If the claimant is in current payment status at the medical review no further action will be necessary. However, if the claimant is not in current payment status at the medical review, the department is to

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