

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-11434
Issue No: 4031
Case No: [REDACTED]
Hearing Date: March 19, 2013
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 March 19, 2013. Claimant personally appeared and provided testimony. Sandra Hockett provided testimony on behalf of the department. During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On May 13, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer disabled and deny his review for 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 an ongoing recipient of SDA benefits.
2. On May 23, 2012, the Medical Review Team ("MRT") found the Claimant disabled for purposes of the SDA benefit programs with an eligibility date of February 20, 2012.
3. In October, 2012, the Department reviewed the Claimant's eligibility.
4. On October 8, 2012, the MRT found the Claimant no longer disabled.
5. The Department notified the Claimant of the MRT determination on October 17, 2012.

6. On November 13, 2012, the Department received the Claimant's timely written request for hearing.
7. Pursuant to the claimant's request to submit new and additional medical evidence, SHRT once again denied claimant's continuing eligibility for SDA on May 13, 2013.
8. Claimant's alleged disabling impairment is a fractured left knee.
9. The Claimant has the equivalent of a high school education (that he received in Iraq) and a work history of medium exertional employment.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

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, 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). In this case, claimant’s impairments do not equal or meet the severity of an impairment listed in Appendix 1, so the analysis will continue.

In the second 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)(ii). 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).

In the instant case, this Administrative Law Judge finds that the claimant has had medical improvement. Claimant’s surgical intervention was in February, 2012. In August, 2012, the orthopaedic trauma clinic physician opined that the claimant could only work sit down duties from August 8, 2012 through February 13, 2013. A September 7, 2012 evaluation found the claimant independent in his activities of daily living. An x-ray from February 14, 2013 showed a healed internally fixed tibial plateau fracture without evidence of hardware failure. In March, 2013, he had decreased range of motion of the left knee due to pain and tenderness to palpation primarily at the left lateral knee in the fibular area. However, there was no crepitus noted on knee extension. There was some pain with varus and valgus straining, but no instability. Strength was 5/5 on the right lower extremity and 4+ limited by pain in the left leg. Reflexes were 2+ and symmetric at the bilateral knees and ankles. Sensation was normal to touch. Gait was antalgic and he did have a little bit of left hip hiking, but he was able to clear his foot. All of this medical evidence shows claimant’s fracture has greatly improved.

If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 3, which examines whether the medical improvement is related to the claimant’s ability to do work, in accordance with paragraphs (2)(b)(1)(i) through (2)(b)(1)(iv). If there has been no decrease in medical severity and thus no

medical improvement, the trier of fact moves to Step 4 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. The claimant's healing fracture will allow him to perform basic work activities such as physical functions such as walking, standing, sitting, lifting, pushing, reaching carrying or handling. This Administrative Law Judge finds that the claimant's medical improvement is related to his ability to perform substantial gainful activity.

At Step 4, if no medical improvement was found at Step 2 or if the medical improvement is not related to an ability to work, we consider whether any exceptions apply. 20 CFR 416.994(b)(5)(iv). This step is not applicable in this case as medical improvement was found to be related to an ability to work.

In the fifth 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)(v). 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 6 in the sequential evaluation process. In this case, this Administrative Law Judge finds the claimant continues with severe impairments and moves to Step 6 of the analysis.

In the sixth 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)(vi). 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 do work he/she has done in the past. This Administrative Law Judge finds claimant can perform sedentary work even with his impairments. This Administrative Law Judge finds that claimant's past work history as a produce salesperson and merchandiser was medium in exertional level, per the Dictionary of Occupational Titles. Therefore, the claimant would not be capable of performing his previous relevant work history and therefore, the analysis continues to the next step.

In the seventh step of the analysis, the trier of fact will assess if the claimant is able to perform other work, considering your age, education and past work experience. 20 CFR 416.994(b)(5)(vii). Claimant is a younger individual (age 47), with a high school education or the equivalent and a history of semi-skilled work, capable of sedentary work. In applying these factors to the Medical Vocational grid rules, the claimant would be found not disabled pursuant to rule 201.21. Therefore, the claimant is disqualified from receiving continuing SDA benefits at step 7 of the analysis.

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 State Disability Assistance based upon medical improvement.

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 for State Disability Assistance benefits. The claimant should be able to perform a range of sedentary work even with his impairments. The department has established its case by a preponderance of the evidence. Claimant does not have medical improvement based upon the objective medical findings in the file.

Accordingly, the department's decision is AFFIRMED.

/s/

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 8, 2013

Date Mailed: July 8, 2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SLM/hj

cc:

