

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-6613
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: February 6, 2013
Genesee 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 February 6, 2013. Claimant personally appeared and testified, along with [REDACTED] a Community Mental Health Case Manager. [REDACTED] 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 16, 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 her review 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 an MA-P and SDA benefit recipient.
- (2) On September 17, 2012, the Medical Review Team denied claimant's case stating that claimant had medical improvement.
- (3) On September 25, 2012, the department caseworker sent claimant notice that her Medical Assistance case would be closed based upon medical improvement.
- (4) On October 17, 2012, claimant filed a request for a hearing to contest the department's negative action.

- (5) On December 7, 2012 and on May 16, 2013, the State Hearing Review Team upheld the MRT's determination to close claimant's case due to medical improvement.
- (6) At the time of hearing, claimant was a 34-year-old female whose birth date is [REDACTED]. Claimant is 5'5" tall and weighs 200 pounds. Claimant completed 11th grade.
- (7) Claimant last worked in 2006 for a fast food restaurant.
- (8) Claimant alleges disability due to bipolar disorder, anxiety, depression, and suicidal ideation.
- (9) On April 6, 2011, the claimant was admitted to the hospital for recurrent seizures. Claimant was intoxicated when she arrived and had been off her Depakote for several months. She also tested positive for cocaine.
- (10) At a July 23, 2012 mental health exam, the claimant complained of anxiety and irritability. She reported getting distracted easily. She denied suicidal or homicidal ideation.
- (11) An August 14, 2012 Mental Residual Functional Capacity Assessment found the claimant not significantly limited in any categories, except the ability to carry out detailed instructions and the abilities to maintain attention and concentration for extended periods and the ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods. These categories the claimant was only moderately limited.
- (12) Claimant was admitted to the hospital on August 19, 2011 for anger outbursts and suicidal ideation. She was diagnosed bipolar disorder, borderline personality disorder. She left against medical advice.
- (13) On October 31, 2012, the claimant presented to the hospital with nausea, vomiting, sweats and chills. She reported that the problems had started two days after quitting binge drinking.
- (14) A March 11, 2013 Psychiatric/psychological report indicates claimant presented with good grooming/ hygiene. Claimant has a long history of substance abuse (alcohol and crack), but reported no substance abuse in last eight months. Speech was logical, coherent, goal directed and oriented x 3. Her memory was good. Mood was labile, affect appropriate but does present irritation easily. Functions independently with regard to hygiene, cooking, shopping, budgeting, transportation, getting to

appointments and is interested in church, singing and being with her family.

- (15) An April 8, 2013 Medical Examination Report (DHS-49) indicated the claimant was diagnosed with epilepsy, but currently stable. Claimant was limited to occasionally lifting 20 pounds. There were no standing/ walking limitations. There were no grasping/reaching/pushing/pulling/fine manipulating limitations and no mental limitations.

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).

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 her medical improvement is related to the claimant's ability to perform substantial gainful activity. The claimant's most recent mental evaluations indicate no suicidal or homicidal ideation. The claimant's mental residual functional capacity assessment found the claimant not significantly limited in any categories, except the ability to carry out detailed instructions and the abilities to maintain attention and concentration for extended periods and the ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods, which were only moderately limited. Claimant was independent in activities of daily living and only needed seizure precautions.

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).

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's work history is less than gainful. Therefore, the analysis proceeds to the last 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). In accordance with Vocational Rule 204.00, the claimant would be denied continuing MA-P and SDA as a younger individual (age 34), with a less than high school education, capable of a full range of simple and repetitive work that avoids the use of ropes, ladders, scaffolding, unprotected heights, and dangerous machinery.

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 based upon medical improvement.

The department's Bridges 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. BEM 261. 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 would 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 for Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a full range of simple and repetitive work even with her impairments. The department has established its case by a preponderance of the

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evidence. Claimant does 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 17, 2013

Date Mailed: July 17, 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:

