

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-45428
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 17, 2013
County: Muskegon

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was commenced on October 17, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistant Payment Supervisor [REDACTED] [REDACTED]

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) 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 March, 2013.
- (2) On March 1, 2013, Claimant filed a Redetermination for Medical Assistance benefits alleging continued disability.
- (3) On April 17, 2013, the Medical Review Team denied Claimant's application indicating that Claimant was denied for continuing eligibility. (Depart Ex. A, pp 621-622).
- (4) On April 23, 2013, the department caseworker sent Claimant notice that his MA case would be closed based upon medical improvement.

- (5) On April 26, 2013, Claimant filed a request for a hearing to contest the department's negative action.
- (6) On June 19, 2013, the State Hearing Review Team denied Claimant's Redetermination because Claimant retained the capacity to perform light, exertional tasks.
- (7) On [REDACTED] Claimant was evaluated by his cardiologist for his dilated cardiomyopathy. He has a past medical history of congestive heart failure and cardiomyopathy diagnosed in October, 2011, with normal coronary arteries. Also, dyslipidemia, hypertension, obstructive sleep apnea now using a C-PAP, and a former history of tobacco use. Upon his evaluation in February, 2012, it was recommended that he have a biventricular implantable cardioverter defibrillator implanted, which was last checked on April 13, 2012, and was found to be V-pacing 99.9% of the time. He has not had any shocks from his biventricular implantable cardioverter defibrillator. He had appropriate thresholds. He states that he has been participating in Cardiac Rehabilitation for almost six weeks now, and feels that he is doing well. He is also on Coumadin due to a small cerebral vascular accident. He described no discomfort. He denies orthopnea, shortness of breath and edema. He has not had palpitations, syncope or near syncope. A recent echocardiogram from May 10, 2012, showed improvement in his ejection fraction to 0.40 to 0.45 with a decrease in estimated pulmonary artery pressures from 41 mmHg to 29mmHg when compared to an echocardiogram from January 23, 2012. Previously, it was noted that his ejection fraction was 0.25 to 0.30 at best. (Depart Ex. 546-548).
- (8) On [REDACTED] Claimant followed up with his cardiologist. Claimant first presented in the fall of 2011 with a severe dilated cardiomyopathy and an ejection fraction of about 10%. He had a left bundle branch block. He began treatment with medical therapy and after three months underwent placement of a biventricular defibrillator device since his ejection fraction was still significantly depressed. His last echocardiogram on 5/10/12 showed an ejection fraction greater than 40% which was a remarkable improvement. Claimant stated he is feeling quite well. He continues to struggle with obesity. He is up another 20 pounds since his last visit in May, 2012, and now weighs 276 pounds with a BMI of 43.3. He is not having chest pain. He has not had syncope or presyncope. He is participating in Phase III cardiac rehabilitation and is physically quite active. He was able to umpire softball this summer. He is not having significant peripheral edema or exertional dyspnea. A check of his defibrillator recently showed that it is working well. He did have about a two week period in late July and early August where he had a little heart failure as measured by the device, but that has resolved. (Depart Ex. 549-551).

- (9) On [REDACTED] Claimant's echocardiogram shows normal chamber size with normal left ventricular function with an estimated ejection fraction of 0.55 to 0.60. There is a pacer wire in the right ventricle. There is slight mitral and slight tricuspid insufficiency. (Depart Ex. 510-511).
- (10) On [REDACTED], Claimant had his annual physical. He had a slight weight gain. He has mild difficulty breathing on exertion. His stamina continues to improve since the defibrillator placement. He wakes up from sleep wheezing or short of breath and wheezing. He has well controlled elevated blood pressure. He appears well and not in acute distress. He has normal excursion with symmetric chest walls and quiet, even and easy respiratory effort with no use of accessory muscles. No rales, no wheezing and no rhonchi. He has regular and normal heart sounds. Auscultation of the heart reveals no murmurs. He is obese. (Depart Ex. 384-387).
- (11) Claimant was receiving MA at the time of this review.
- (12) Claimant alleges his disabling impairments are an enlarged heart, left blockage, stroke, impeded speech, ejection fraction of 10%, and a pacemaker.
- (13) Claimant is a 44-year-old man whose birth date is [REDACTED]. Claimant is 5'7" tall and weighs 286 pounds. Claimant is a high school graduate. Claimant is unable to read and write and struggles with basic math skills since his stroke.
- (14) Claimant last worked in October, 2011.

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 Reference Tables Manual (RFT).

Pursuant to the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for such benefits must be reviewed periodically. Before determining that a client is no longer eligible for disability benefits, the agency must establish that there has been a medical improvement of the client's impairment that is related to the client's ability to work. 20 CFR 416.994(b)(5).

To assure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way,

and that any decisions to stop disability benefits are made objectively, neutrally, and are fully documented, we will follow specific steps in reviewing the question of whether your disability continues. Our review may cease and benefits may be continued at any point if we determine there is sufficient evidence to find that you are still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first question asks:

- (i) Are you engaging in substantial gainful activity? If you are (and any applicable trial work period has been completed), we will find disability to have ended (see paragraph (b)(3)(v) of this section).

Claimant is not disqualified from this step because he has not engaged in substantial gainful activity at any time relevant to this matter. Furthermore, the evidence on the record fails to establish that Claimant has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues. 20 CFR 416.994(b)(5)(ii).

The next step asks the question if there has been medical improvement.

Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued 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 your impairment(s). 20 CFR 416.994(b)(1)(i).

If there is a decrease in medical severity as shown by the symptoms, signs and laboratory findings, we then must determine if it is related to your ability to do work. In paragraph (b)(1)(iv) of this section, we explain the relationship between medical severity and limitation on functional capacity to do basic work activities (or residual functional capacity) and how changes in medical severity can affect your residual functional capacity. In determining whether medical improvement that has occurred is related to your ability to do work, we will assess your residual functional capacity (in accordance with paragraph (b)(1)(iv) of this section) based on the current severity of the impairment(s) which was present at your last favorable medical decision. 20 CFR 416.994(b)(2)(ii).

The State Hearing Review Team upheld the denial of MA benefits on the basis that Claimant's medical condition has improved and he retained the capacity to perform light, exertional tasks. Claimant was approved for MA benefits after MRT found Claimant met Listing 4.02A1 with an ejection fraction of 10%.

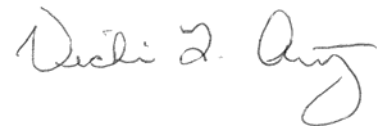
Pursuant to the federal regulations, at medical review, the agency has the burden of not only proving Claimant's medical condition has improved, but that the improvement relates to the client's ability to do basic work activities. The agency has the burden of establishing that Claimant is currently capable of doing basic work activities based on objective medical evidence from qualified medical sources. 20 CFR 416.994(b)(5).

In this case, the agency has met its burden of proof. The agency provided evidence from Claimant's cardiologist that Claimant's ejection fraction is now normal, between 55 and 60%. Furthermore, Claimant umpired softball all summer. Claimant also testified that had he been approved for the Adult Medical Program, he would not have gone forward with the Disability hearing. Accordingly, the agency's MA eligibility determination is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department properly closed Claimant's MA case based upon a finding of improvement at review. Accordingly, the department's action is **UPHELD**.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 24, 2013

Date Mailed: October 24, 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

VLA/las

cc:

