

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201363915
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 19, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs at redetermination?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In June 2012, Claimant had his/her most recent favorable medical decision.
2. On June 27, 2013, the DHS terminated the Claimant's MA-P/SDA based on medical recovery per BEM 260/261 with a hearing request on August 5, 2013.
3. Vocational Factors: Age 52 three years of college, and skilled work experience.
4. Alleged continuing disabling medical disorders: ventral hernia repair, left knee problem, and diverticulitis. (DHS Exhibit A, Pg 247).

5. Disabling symptoms chronic left knee pain and swelling, and intermittent stomach pain.
6. Claimant's earnings for July & August 2013 were ██████/month.

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 (BRM).

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 (BRM).

Facts above are undisputed.

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...Ability to engage in substantial gainful activity. In most instances, we must show that you are able to engage in substantial gainful activity before your benefits are stopped. When doing this, we will consider all your current impairments not just that impairment(s) present at the time of the most recent favorable determination.... 20 CFR 416.994(b)(1)(v).

Substantial gainful activity means work that involves doing significant and productive physical or mental duties; and is done for pay or profit. To be eligible for disability benefits, a person must be unable to engage in substantial gainful activity. A person who is earning more than \$1040 a month during 2013 is considered to be engaging in substantial gainful activity. 20 CFR 416.910 (a) (b).

Therefore, the DHS has sustained its burden of proof to establish claimant's recovery for substantial gainful activity.

To be eligible for MA-P/SDA disability, a person must be unable to engage in substantial gainful activity. A person who is earning more than \$1,040 a month during 2013 is considered to be engaging in SGA20 CFR 416.910 (a) (b).

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, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does establish that claimant is able to work, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

The objective medical evidence of record establishes that Claimant's current impairments in combination do not significantly limit his ability to perform substantial gainful activity.. Therefore, the impairments are not considered severe and that Claimant is no longer considered disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of and conclusions of law, decides medical recovery was established.

Accordingly, MA-P/SDA termination is **UPHELD** and so ORDERED.

/s/

William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/27/2013

Date Mailed: 12/30/2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

201363915/WAS

- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

WAS/sw

cc:

