

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 2013-12404  
Issue No: 2009;4031  
Case No: [REDACTED]  
Hearing Date: March 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 March 7, 2013. Claimant personally appeared and testified. The claimant was represented at the hearing by Social Worker, [REDACTED]. The department was represented at the hearing by Family Independence Manager, [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) 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 in August, 2012.
2. On August 1, 2012, claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On October 23, 2012, the Medical Review Team denied claimant's application stating that claimant's impairments are non extertional.
4. On October 30, 2012, the department caseworker sent claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.

5. On November 13, 2012, claimant filed a request for a hearing to contest the department's negative action.
6. On January 15, 2013, the State Hearing Review Team again denied claimant's review application stating in its analysis and recommendation: the claimant's blood pressure is well controlled. The lumbar spine had limited range of motion. His grip strength was intact. Motor strength and sensation was intact. The medical evidence shows that he may be depressed at times. He is still able to remember, understand, and communicate with others. As a result of the claimant combination of severe physical and mental conditions, he is restricted to performing unskilled work. Claimant is not engaging in substantial gainful activity at this time. Claimant's severe impairments do not meet or equal any listing. Despite the impairments, he retains the capacity to perform unskilled work. Therefore, based on the claimant's vocational profile (claimant approaching advanced age, 11<sup>th</sup> grade education, and medium work history); MA-P is denied using Vocational Rule 204.00 as a guide. SDA is denied per PEM 261 because the information in file is inadequate to ascertain whether the claimant is or would be disabled for 90 days. Retroactive MA-P benefits are denied at step 5 of the sequential evaluation; claimant retains the capacity to perform unskilled work.
7. The hearing was held on March 7, 2013. At the hearing, claimant waived the time periods and requested to submit additional medical information.
8. Additional medical information was submitted and sent to the State Hearing Review Team on March 7, 2013.
9. On June 3, 2013, the State Hearing Review Team again denied claimant's application stating that the Medical Review Team (MRT) and the State Hearing Review Team (SHRT) denied continuing MA-P and SDA on October 23, 2012 and January 18, 2013, respectively. The MRT previously approved benefits on November 3, 2010 and March 29, 2012. Drug and alcohol abuse has been present in the past but is not currently present and therefore not material to this determination. The medical records detail throughout the psychiatric history inconsistencies that have been observed in May 6, 2011, February 21, 2012 and June 18, 2012 evaluations and also noted in prior Social Security Administration determinations but not addressed in previous determinations. The MRT determination of March 29, 2012 was not scheduled for a review until March, 2013. Per DHS-3050 the case was sent for MA-P and SDA redetermination on August 1, 2012; see also DHS-1010. This case has been returned by the Office of Administrative Hearings for review of new medical since the MRT and SHRT determinations cited above. The medical records reasonably support that medical improvement has been evidenced. Further, the medical records indicate that there is evidence of continued claimant prevarication. It is reasonable that the claimant would retain the ability to perform light exertional tasks of a simple and repetitive

nature. The medical evidence of record indicates that significant medical improvement has been evidenced (20C FR416.994) and that the following now applies to this claim: the claimant is not currently engaging in substantial gainful activity based on the information that is available in file. The claimant's impairments/combination of impairments does not meet/equal the intent of severity of a Social Security Administration listing. The medical evidence of record indicates that the claimant retains the capacity to perform light exertional tasks of a simple and repetitive nature. The claimant's past work was: machine operator, 619.685-062, 3M; and, assembly, 706.687-010, 2L. As such, the claimant would be unable to perform the duties associated with their past work. Likewise, the claimant's past work skills will not transfer to other occupations. Therefore, based on the claimant's vocational profile (53 years old, a less than high school education and a history of light exertional, unskilled; and, medium exertional, semi-skilled employment), continuing MA-P is denied, 20CFR416.920(e&g)/BEM 260, using Vocational Rule 202.10 as a guide. Continuing SDA is denied per BEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days. Retroactive MA-P was not considered as part of this continuing MA-P and SDA only review. Listings 1.02/04, 4.04, 11.03/14 and 12.02/03/04/05/08/09 were considered in this determination.

10. Claimant is a 53-year-old whose birth date is [REDACTED]. Claimant is 5'9" tall and weighs 200 pounds. Claimant attended the 11<sup>th</sup> grade and has no GED. Claimant testified that he cannot read or write and he has no basic math skills.
11. Claimant last worked in 2006 for [REDACTED] [REDACTED]. Claimant has worked as a busboy, in a factory and was in prison from 2009-2010.
12. Claimant alleges as disabling impairments: bipolar disorder and hypertension.

### **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 2006.

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 the physical examination on July 7, 2011 reported his blood pressure was 120/72. He had limited range of motion of the lumbar spine. Grip strength was intact. Motor strength and sensation were intact. The mental status on June 20, 2012 noted he was lucid and displayed good eye contact. His gross attention and concentration faculties were intact. His speech was clear, coherent, and goal directed. He had full range of affect. He was fully oriented (p 28-31). A mental status evaluation dated December 4, 2012 indicates that claimant came in casually dressed. His mood was good. His affect was appropriate. He was much more upbeat. Psychomotor activity was normal with no retardation noted. He denied any auditory or

visual hallucinations or delusions . He also denied any suicidality or homicidality. The impression was schizoaffective disorder, depressed type. He was continued on Seroquel and Zoloft (p 2). An exam dated October 25, 2012 indicated that claimant had a fairly full affect; described his mood overall as having some irritability but “better” and fairly euthymic. He was alert and oriented. His speech was normal. No abnormalities of thought form or thought content, although he describes a “dull roar” which he identified as a hallucination because he had been told in the past that it is a hallucination. Insight and judgment appear adequate and there is no suicidal or homicidal ideation (p 4). This Administrative Law Judge did consider all 390 pages of medical reports contained in the file when making this determination.

At Step 2, claimant’s impairments do not equal or meet the severity of an impairment listed in Appendix 1.

In the third 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)(iii). 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 4 (which examines whether the medical improvement is related to the claimant’s ability to do work). If there has been no decrease in medical severity and thus no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

In the instant case, this Administrative Law Judge finds that claimant retains the residual functional capacity to perform light or sedentary work even with his impairments.

Thus, this Administrative Law Judge finds that claimant’s **dictate**. If there is a finding of medical improvement related to claimant’s ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth 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)(vi). 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 7 in the sequential evaluation process. In this case, this Administrative Law Judge finds claimant can perform his prior work as a busboy.

In the seventh 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)(vii). 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 still do work he/she has done in the past. In this case, this Administrative Law Judge finds that claimant can perform his prior work as a busboy.

In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, MA-P is denied using Vocational Rule 202.10 as a guide. Claimant can perform other work in the form of light work per 20 CFR 416.967(b). This Administrative Law Judge finds that claimant does not 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 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 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 does 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 and application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a wide range of light or 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**.

Landis

/s/

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Y. Lain  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: June 19, 2013

Date Mailed: June 20, 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

LYL/las

cc:

