

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-50241
Issue No.: 4031
Case No.: [REDACTED]
Hearing Date: October 10, 2013
County: Eaton

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 10, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED]

ISSUE

Did the Department of Human Services (the Department) properly determine that Claimant was no longer disabled and deny her review application 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 a State Disability Assistance (SDA) benefit recipient and her SDA case was scheduled for review in February, 2013.
- (2) On February 1, 2013, Claimant filed a Redetermination for SDA benefits alleging continued disability.
- (3) On May 8, 2013, the Medical Review Team denied Claimant's application. (Depart Ex. A, pp 24A-25A).
- (4) On May 13, 2013, the department case worker sent Claimant notice that her SDA case would be closed based upon medical improvement.
- (5) On May 28, 2013, Claimant filed a request for a hearing to contest the department's negative action.

- (6) On July 23, 2013, the State Hearing Review Team denied Claimant's Redetermination finding Claimant retains the capacity to perform a wide range of simple, unskilled, light work.
- (7) On November 29, 2012, Claimant was denied MA by the Medical Review Team and approved for SDA, with a review date of February, 2013. (Depart Ex. 24-25).
- (8) On February 25, 2013, Claimant presented to the emergency department complaining of chronic left flank pain. Claimant stated that she has been having urinary trouble since December. She was seen at an other facility and was told she had passed a stone. She has had urinary retention and was sent home with a catheter. Since then she has had difficulty passing urine. In 2010 and 2011 she had a diverticulum removed from the urethra. She had stings on the urethra in 2011 and 2012. After surgeries she developed a large hematoma that burst and required surgery for debridement. She also has a history of bleeding ulcers, migraines and thyroid disease. She has had her appendix, gallbladder and ovarian cyst removed. She exhibits severe left costovertebral angle (CVA) tenderness and mild right CVA tenderness. A CT of the abdomen and pelvis with contrast showed no acute findings. (Depart Ex. 124A-137A).
- (9) On March 18, 2013, Claimant underwent an independent medical evaluation at the request of the Department. The examining physician indicated Claimant is an anxious young woman with multiple somatic complaints and a significant amount of anxiety and stated depression. She is not actively suicidal nor is she psychotic. Her hygiene is only fair. She can demonstrate normal range of motion of the neck, back, shoulders, elbows, wrists, hands, hips, knees, ankles and feet. She has some mild paraspinal tenderness. She can get in and out of a chair and on and off the exam table without difficulty. She does have some left peripatellar crepitus compares to the right. She has no swelling and no effusion. She has full range of motion and she has some mild peripatellar tenderness without erythema or functional deficit. (Depart Ex. 44A-47A).
- (10) On April 2, 2013, Claimant underwent a psychological evaluation at the request of the Department. Claimant stated she was diagnosed with depression and PTSD while psychiatrically hospitalized at ██████████ in July, 2012. She explained that she had been physically, sexually and mentally abused during a three-year relationship. She sleeps with a knife by her bed. She is avoidant of stimuli that remind her of the abuse. She reported symptoms of PTSD. Claimant was pleasant and cooperative. She did not exhibit inappropriate social actions. She did not seem significantly agitated or distressed. She exhibited good contact with reality. She made spontaneous conversation. She did not appear significantly distracted or inattentive at any time. Her motor activity appeared normal. Her gait and posture appeared normal. Her fine and gross motor skills appeared intact. Her grooming and hygiene were

appropriate. She reported being autonomous for many tasks. She exhibited adequate insight. She exhibited a flat affect. She did not appear significantly angry or suspicious. She did not exhibit vegetative signs of depression. She reported pessimism, feelings of failure, loss of pleasure, self-loathing, loss of interest in people and things, significant decision-making difficulty, feelings of worthlessness, low energy, sleep disturbance, irritability, concentration problems, significant fatigue, difficulty relaxing and nervousness. She appears to have unimpaired capabilities to understand, retain and follow simple instructions and to perform and complete simple tasks. Her depression might create mild impairment in her capability to interact appropriately and effectively with coworkers and supervisors and to adapt to changes in the work setting. She stated that it is difficult to work due to memory difficulties. It is common for individuals with depression to report memory or attention problems. A comprehensive neuropsychological evaluation would be needed to comment more fully on the nature of her memory capacity. She did not exhibit clear signs of memory problems during the evaluation. It is suspected that her limitations would result in mild impairment in her capacity to do work related activities. Her physician will need to offer an opinion regarding her level of impairment to do work related activities as a result of her medical problems. According to her Mental Residual Functional Capacity Assessment, Claimant was moderately limited in her ability to sustain an ordinary routine without supervision; 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; accept instructions and respond appropriately to criticism from supervisors; get along with coworkers or peers without distracting them or exhibiting behavioral extremes and travel in unfamiliar places or use public transportation. Diagnosis: Axis I: Major Depressive Disorder, Recurrent, Moderate; Posttraumatic Stress Disorder; Axis II: No diagnosis; Axis III: She has a number of significant mental problems including endometriosis, urethral diverticulum, migraine headaches, asthma and hypothyroidism; Axis IV: She exhibited moderate psychosocial stressors associated with significant medical problems, unemployment, financial limitations and the lack of her own residence; Axis V: GAF=56. Prognosis is guarded to fair. (Depart Ex. 52A-57A).

- (11) Claimant was receiving SDA at the time of this review.
- (12) Claimant alleges her disabling impairments are restless leg syndrome, posttraumatic stress syndrome, migraines, ulcers, anemia, depression, anxiety, asthma, chronic pain syndrome, fatigue, malaise, endometriosis, hypothyroidism, methicillin-resistant staphylococcal infection (MRSA), cellulitis, urethral diverticulum and obstructive sleep apnea.

- (13) Claimant is a 30-year-old woman whose birth date is [REDACTED]. Claimant is 5'8" tall and weighs 195 pounds. Claimant has a college education. She is able to read and write and does have basic math skills.
- (14) Claimant last worked in 2012.

CONCLUSIONS OF LAW

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 Mich Admin Code, Rules 400.3151-400.3180. 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 she 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 CF 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).

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 not met its burden of proof. The agency has provided no evidence that indicates Claimant's condition has improved, or that the alleged improvement relates to her ability to do basic work activities. The agency provided no objective medical evidence from qualified medical sources that show Claimant is currently capable of doing basic work activities. Accordingly, the agency's SDA eligibility determination cannot be upheld at this time.

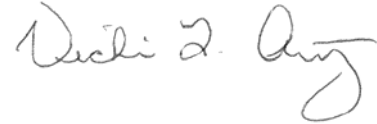
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department erred in proposing to close Claimant's SDA case based upon a finding of improvement at review.

Accordingly, the Department's action is **REVERSED**, and this case is returned to the local office for benefit continuation as long as all other eligibility criteria are met, with

Claimant's next mandatory medical review scheduled in October, 2014, (unless she is approved eligible for Social Security disability benefits by that time).

It is SO ORDERED.



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

Date Signed: October 22, 2013

Date Mailed: October 22, 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

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cc:

