

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-5691
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: January 31, 2013
County: Kent

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 January 31, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [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 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 her Medical Assistance case was scheduled for review in September, 2012.
- (2) On September 1, 2012, Claimant filed a Redetermination for Medical Assistance benefits alleging continued disability.
- (3) On September 24, 2012, the Medical Review Team denied Claimant's application indicating that Claimant was denied for continuing eligibility. (Depart Ex. A, pp 7-8).

- (4) On September 26, 2012, the department caseworker sent Claimant notice that her MA case would be closed effective November 1, 2012, based upon medical improvement.
- (5) On October 4, 2012, Claimant filed a request for a hearing to contest the department's negative action.
- (6) On December 18, 2012, the State Hearing Review Team denied Claimant's Redetermination indicating the medical evidence of record indicates Claimant retains the capacity to perform simple and repetitive tasks. (Dept Ex. B, pp 1-2).
- (7) Claimant was receiving Medicaid at the time of this review.
- (8) Claimant alleges her disabling impairment's are asthma, restless leg syndrome, post traumatic stress disorder, depression, panic disorder, and phobias.
- (9) Claimant is a 40-year-old woman whose birth date is [REDACTED] Claimant is 5'2" tall and weighs 130 pounds. Claimant completed the tenth grade.
- (10) Claimant has a driver's license but testified that she is unable to drive due to panic attacks.
- (11) On January 18, 2011, and January 31, 2011, Claimant's therapist noted Claimant was doing better since the medication change. She was shaking less, smiling and able to laugh. She was more focused on the people around her. She was still anxious and rarely left the house. She was beginning to do some housework but was not ready to do any artwork. (Dept Ex. A, pp 66-67).
- (12) On February 14, 2011, Claimant met with her therapist who opined Claimant was able to cope better with the panic attacks and was going out only with her friend. She felt safer with her. (Dept Ex. A, p 68).
- (13) On April 5, 2011, Claimant reported for her medication review. Claimant had regressed to depression with crying spells and had difficulty with concentration. She was still having some anxiety attacks and was feeling uncomfortable about herself as she goes out. (Dept A., p 71).
- (14) On May 5, 2011, Claimant saw her therapist. Claimant was finding her anxiety and lack of focus getting in the way of working on her art. She appeared to be dealing with stress a little better. She was not shaking as much, although her sleep was being impacted. (Dept A., p 74).

- (15) On June 1, 2011, at her medication review, her psychiatrist opined that she had not been doing well. She was put on Cymbalta, Abilify, Trialfon and Desyrel the last time. She was still struggling with some irritability and motivation issues. She also complained of panicky feelings. Diagnosis of Major Depressive Disorder, Recurrent is maintained. (Dept A., p 75).
- (16) On June 24, 2011, Claimant met with her therapist. Claimant had moved, which her therapist noted gave her something else to focus on other than her anxiety. Claimant was shaky and tearful throughout the session. She stated she was not sleeping well. (Dept A., p 78).
- (17) On June 29, 2011, Claimant met with a new psychiatrist. The new psychiatrist noted Claimant has a history of depression and anxiety. She does have agoraphobia at times. When she was younger, she did take an overdose of pills and ended up in a coma and then ended up staying at [REDACTED] for three months following that. She has also had one admission to [REDACTED]. Other than that she has been managed as an outpatient. Claimant reports her main problem is the overwhelming anxiety, not wanting to leave the house, being so anxious and overwhelmed that she is not able to do any of her usual projects or enjoy life. She reported that she felt her medication has not been successful in treating her symptoms and was quite frustrated by it. Initially, she was shaking like a leaf when she came into the room, but that did slowly go away as the interview went on. By the end of the interview, she was able to laugh and talk easily with her case manager. Diagnosis is major depression and generalized anxiety disorder. (Dept A., pp 80-82).
- (18) On July 5, 2011, Claimant met with her therapist and followed up on her medication review from last week. Claimant was more relaxed, smiled, and made a couple of jokes. She stated the Klonopin helped with the panic attacks and she is not taking it all the time. She was able to go out of town with friends. She was happy with meeting the new psychiatrist and is looking forward to working with a woman psychiatrist. (Dept A., p 85).
- (19) On July 21, 2011, Claimant met with her therapist. Her speech was less pressured and she was less tearful. She stated the new medications were helping. She was getting out with friends and was more relaxed and forward thinking. She was working on her home and had projects to keep her busy. (Dept A., p 86).
- (20) On February 7, 2012, Claimant saw her psychiatrist for her medication review. Claimant stated that she felt her medications, with the addition of Trileptal had helped a bit. She was sleeping somewhat better, and she felt her thoughts were less scattered, however she continued to have mood swings. Her affect was appropriate, her mood anxious. Her speech

was normal in rate and rhythm. Her judgment and insight were good and short and long term recall appeared to be intact. Her concentration was fair. Diagnosis was bipolar disorder. (Dept Ex. A, pp 36-37).

- (21) On February 16, 2012, the Social Security Administration issued a Partially Favorable decision. Based on the application for a period of disability and disability insurance benefits filed on September 2, 2009, Claimant was disabled from February 3, 2009, through January 11, 2011. The Administrative Law Judge noted that although some symptoms persisted and her diagnosis of anxiety and depression were reconfirmed, but there were no records after January 11, 2011, that showed Claimant was disabled by her impairments. To the contrary, the records showed that Claimant had done well with treatment and seemed to be notably recovering from the mental break she had on her Established Onset of Disability (EOD). (Dept Ex. B, pp 9-34).
- (22) On February 28, 2012, Claimant saw her psychiatrist for a medication review. Claimant last saw her psychiatrist in August, 2011. Claimant began crying shortly after walking in. She reported that she had just had a panic attack in the elevator and it was so uncomfortable and horrible. She was able to pull herself together. She reported that she is not having any side effects from her medication. She stated that the Trileptal does make her overly tired during the day, and, in fact, she was sleeping better since the Trazodone was increased. Overall, her psychiatrist opined that she was on a pathway for improvement with some slight adjustments. Diagnosis is generalized anxiety disorder. (Dept Ex. A, pp 34-35).
- (23) On April 17, 2012, Claimant met with her psychiatrist for a medication review. Claimant stated that she felt the Trileptal was helping her mood. She felt that Abilify, Cymbalta, and Trazodone were all working to her benefit. She stated that Trileptal in particular had been helpful; however, she was feeling very fatigued and tired. She started crying as soon as she hit the office door. She made fair eye contact but that did improve as time went on. When asked, she stated she did not know why she was crying. Her diagnosis is bipolar II disorder, generalized anxiety disorder, social phobia, and borderline personality disorder. (Dept Ex. A, pp 31-32).
- (24) On July 11, 2012, Claimant saw her psychiatrist for a medication review. Claimant was not doing well. Her mood had basically collapsed and was all over the place, especially down. Her health insurance was cancelled so she had been unable to get her medications. Her speech was soft and delayed. Her mood was euthymic. She was tearful and feeling hopeless. (Dept Ex. A, pp 28-30).
- (25) At the time of the hearing, Claimant was appealing the denial of Social Security Disability benefits.

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).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manual s. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(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.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

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 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 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 and SDA benefits on the basis that Claimant's medical condition has improved and that Claimant retained the capacity to perform simple and repetitive tasks. Claimant was approved for MA benefits after being approved by the Medical Review Team on September 7, 2011.

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 medical evidence of record does show that Claimant's condition has improved and that Claimant is currently capable of doing basic work activities. Accordingly, the agency's MA and SDA eligibility determination is upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's MA and SDA programs based upon a finding of improvement at review.

Accordingly, the department's action is **UPHELD**.

It is SO ORDERED.

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

Date Signed: February 25, 2013

Date Mailed: February 25, 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:

