

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-36011
Issue No.: 2009
Case No.: ██████████
Hearing Date: September 11, 2013
County: Lake

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 September 11, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████.

The record was extended to allow additional relevant medical evidence to be submitted. Claimant waived timeliness. The additional medical evidence was received and submitted to the State Hearing Review Team (SHRT) for review prior to this decision being issued.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) program?

FINDINGS OF FACT

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

1. On January 30, 2013, the Department sent Claimant's MA case back to the Medical Review Team (MRT) for medical review. Claimant was last approved by MRT on January 31, 2012, based upon a listing.
2. On March 5, 2013, the Medical Review Team denied Claimant's request.

3. On March 22, 2013, Claimant submitted to the Department a request for hearing.
4. SHRT denied Claimant's request.
5. Claimant is 27 years old.
6. Claimant completed education through a GED.
7. Claimant has not worked in the last year and is not currently working.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from mood disorder, post-traumatic stress disorder, fibromyalgia, arthritis and back pain.
10. Claimant has some limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
11. Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (RFT).

In order to receive MA benefits based upon disability or blindness, Claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) 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).

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).

The first step to be considered is whether the claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, Claimant is not working. Therefore, Claimant is not disqualified at this step in the evaluation.

In the second step, the trier of fact must determine if the claimant’s impairment (or combination of impairments) meets or equals the severity of an impairment listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant’s medical record does not support a finding that Claimant’s impairment(s) is a “listed impairment” or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Accordingly, the sequential evaluation process must continue.

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 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) (see §416.928). 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 this case, Claimant was most recently approved for MA-P on January 31, 2012. The undersigned Administrative Law Judge, after comparing past medical documentation with current medical documentation, finds there is no medical improvement.

Claimant testified to the following symptoms and abilities: weakness has gotten worse, memory has gotten worse, needs to write things down in order to recall things, needs surgery on her back, poor concentration, feelings of worthlessness, suicidal, agoraphobic, stays in her room and doesn’t leave her home, feels people are out to get her, needs reminders to shower, will go four days without showering, feels overwhelmed, problems with sleeping, racing thoughts, will go days without sleep and then sleep for days, suicidal thoughts, broke out some of her own teeth with a chisel due to the pain and she cuts herself when she gets overwhelmed.

Claimant's mother testified her daughter's condition has gotten worse. She has been having auditory hallucinations. Her medication has caused her teeth to rot out. Her sleep and eating habits are erratic. She cuts herself.

In the fifth step of the sequential evaluation, the trier of fact must consider whether any of the exceptions in 20 CFR 416.994(b)(3) and (b)(4) applies. If none of them applies, Claimant's disability must be found to continue. 20 CFR 416.994(b)(5)(v).

The first group of exceptions to medical improvement (i.e., when disability can be found to have ended even though medical improvement has not occurred), found in 20 CFR 416.994(b)(3), is as follows:

- *Substantial evidence shows that you are the beneficiary of advances in medical or vocational therapy or technology (related to your ability to work).*
- *Substantial evidence shows that you have undergone vocational therapy (related to your ability to work).*
- *Substantial evidence shows that based on new or improved diagnostic or evaluative techniques your impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable decision.*
- *Substantial evidence demonstrates that any prior disability decision was in error.*

In examining the record, this Administrative Law Judge finds that there is nothing to suggest that any of the exceptions listed above applies to Claimant's case.

The second group of exceptions to medical improvement, found at 20 CFR 416.994(b)(4), is as follows:

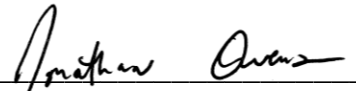
- *A prior determination or decision was fraudulently obtained.*
- *You did not cooperate with us.*
- *Claimant cannot be found.*
- *Claimant failed to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity.*

After careful review of the record, this Administrative Law Judge finds none of the above-mentioned exceptions applies to Claimant's case. Accordingly, per 20 CFR 416.994, this Administrative Law Judge concludes that Claimant's disability for purposes of Medical Assistance must continue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant continues to be medically disabled.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to maintain Claimant's eligibility for MA if otherwise eligible for program benefits. A review of this case shall be set for February 2015.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 15, 2014

Date Mailed: January 16, 2014

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;
- 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

JWO/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]