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

#### IN THE MATTER OF:



Reg. No.: 2013-49701

Issue No.: 2009

Case No.: Hearing Date:

October 23, 2013

County: Macomb-20

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

### **HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law J udge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 t o 431.250; and 45 CFR 205.10. After due notice, a tele phone hearing was commenced on October 23, 2013, from Lansing, Michi gan. Claimant, and her sister, personally appeared and testified. Participants on behalf of the D epartment of Human Services (Department) included Eligibility Specialist

During the hearing, Claimant wa ived the time period for the i ssuance of this decision in order to allow for the submission of addition al medical evidence. No new evidence was received. Therefore, this matter is now before the undersigned for a final decision.

#### ISSUE

Did the Department of Hum an Services (the department) properly determine that Claimant was no longer dis abled and deny her review application for Medica I Assistance (MA-P) 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 Assis tance benefit recipient and her Medic al Assistance case was scheduled for review in March, 2013.
- (2) On March 1, 2013, Claimant filed a Redetermination for Medical Assistance benefits alleging continued disability.
- (3) On May 2, 2013, the M edical Review Team denied Claimant's application for continuing eligibility. (Depart Ex. A, pp 124-125).

- (4) On April 23, 2013, the department ca seworker sent Cla imant notice that his MA case would be closed based upon medical improvement.
- (5) On April 26, 2013, Claimant filed a request for a hearing to contest the department's negative action.
- (6) On June 19, 2013, the State Hearin g Review Team denied Claimant's Redetermination because Claimant retalined the chapacity to perform simple, unskilled, medium work.
- (7) Claimant was receiving MA at the time of this review.
- (8) Claimant alle ges he r disabling impairments due to atrial fibrillation, esophagitis, cardiomyopathy and alcohol related encephalopathy.
- (9) Claimant is a 52-year-old woman whose birth date is Claimant is 5'2" tall an d weighs 129 pounds. Claimant has a ninth grade education.
- (10) Claimant last worked in 1993.

## **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by Title 42 of the C ode 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 eligib ility for such benefits must be reviewe d 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 mos t 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 questions asks:

(i) Are you engaging in subst antial gainful activity? If you are (and any applic able t rial 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 wer e disabled or continued to be di sabled. 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 laborator y 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 will assess your residual vour ability to do work, we functional capacity (in accordan ce with paragraph (b)(1)(iv) of this section) based on the current severity of the impairment(s) which was presen t at your last favo rable medical decision. 20 CFR 416.994(b)(2)(ii).

The State Hearing Review Team upheld the denial of MA benefits on the basis that Claimant's medical condition has improved. Claimant was approved for MA benefits after being diagnose d with atrial fibrillation, esophagitis, cardiomyopathy and alcoho I related encephalopat hy. Pursu ant 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 cas e, the agency has not met it s burden of proof. The agency relied on a medical examination report completed by Claimant's cardio logist dated 2/22/13 that indicates Claimant's condition is improving. However, according to Claimant's cardiologist during an office visit on March 18, 2013, Claimant was status post atrial flutter ablation and was doing well, but was recommended to have a follow-up EKG/ECG. In addition, Claimant was to continue with the Coumadin and was scheduled for another Holt er monitor in a few weeks then scheduled to follow-up with the cardiologist in 3 weeks.

The agency provided no evidence that indicates Claimant's improvement relates to her ability to do basic work activities, only ev idence that she is not currently under any physical or mental limitations. The agency provided no objective medical evidence from qualified medical sources that show Claimant is currently capable of doing basic work activities. Accordingly, t he agency's MA eligibility determination cannot be upheld at this time.

# **DECISION AND ORDER**

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

Accordingly, the department's action is **REVERSED**, and this c ase is returned to the local office for benefit continuation as long as all oth er eligibility criteria are met, wit h Claimant's next mandatory m edical review scheduled in J anuary, 2015 (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: January 8, 2014

Date Mailed: January 8, 2014

**NOTICE OF APPE AL:** The Claimant may appeal the De cision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, i f a timely Request for Rehearing or Reconsiderati on was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing Syst em (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a par ty within 30 days of the mailing date of this Dec ision and Order. MAHS will not order a rehearing or reconsideration on the Department's mo tion where the final decis ion 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 disc overed evidence that existed at the time of the or iginal 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 clai mant must specify all reas ons 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

#### VLA/las

