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

IN THE MATTER OF:

[redacted]

Reg. No: 2013-41433
Issue No: 2009; 4009
Case No: [redacted]
Hearing Date: November 21, 2013
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 November 21, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and her [redacted]. Participants on behalf of the Department of Human Services (Department) included [redacted], Family Independence Manager.

ISSUE

Did the Department of Human Services (the Department) properly determine that Claimant was no longer disabled and deny the 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 the Medical Assistance case was scheduled for review in October 2012.

2. On October 11, 2012, Claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.

3. On March 24, 2013, the Medical Review Team denied Claimant's application stating that Claimant had medical improvement.

4. On March 28, 2013, the Department caseworker sent Claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.

5. On April 5, 2013, Claimant filed a request for a hearing to contest the Department's negative action.

6. On July 10, 2013, the State Hearing Review Team again denied Claimant's application stating in its recommendation that the medical evidence of record indicates that significant medical improvement has been evidenced.

7. On November 21, 2013, the hearing was held. At the hearing Claimant waived the time periods and requested to submit additional medical information.

8. On December 9, 2013, additional medical information was received and sent to the State Hearing Review Team for further review.

9. On February 18, 2014 the State Hearing Review Team again denied Claimant's application.

10. Claimant is a [redacted]-year-old whose birth date is [redacted]. Claimant is 5'4" tall and weighs 290 pounds. Claimant attended the [redacted]. Claimant is able to read and write and does have basis math skills.

11. Claimant last worked in [redacted] at a [redacted]. Claimant has also worked in [redacted].

12. Claimant was receiving Medical Assistance and State Disability Assistance based upon approval by the medical review team from October 3, 2011.

13.. Claimant alleges as disabling impairments: back pain, heart problems, bipolar disorder, anxiety, depression, impulse control disorder, mood disorder, fibromyalgia, displaced discs, double vision, lack of rotation of the hips, psychotic personality disorder, agoraphobia, social anxiety and posttraumatic stress disorder.

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 approximately [redacted]

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 that a [redacted] indicates the Claimant was diagnosed with [redacted] and anxiety as well as [redacted] with Claimant reporting that she smoked [redacted] typically on a [redacted] and that she is a [redacted] in the [redacted] helps her with pain and anxiety, page 475. Her axis V GAF was 45, page 479. The [redacted] on [redacted] reported that she weighed 246 pounds and height was 5'4" tall. Claimant's blood pressure was 104/74. Her pulse was 84 and regular, respiratory rate equals 16. Her visual acuity in both eyes was 20/70 without corrective lenses. Pupils were equal, round and reactive to light. The patient

could hear conversational speech without limitation or aides. The neck was supple without masses. Breath sounds were clear to auscultation and symmetrical. There was no accessory muscle use. There is regular rate and rhythm in the heart without enlargement. There was normal S1 and S2. In the musculoskeletal area there was no evidence of joint laxity, crepitance or effusion. There is synovial thickening at the knees bilaterally. Grip strength remains intact. Dexterity is unimpaired. The patient could pick up a coin, button clothing and open a door. The patient and no difficult to getting on and off the examination table, no difficulty heel and toe walking, no difficulty squatting and no difficulty hopping. Straight leg raising is normal and negative. There is no paravertebral muscle spasm. Range of motion studies were normal. She had normal range of motion of all joints. Motor strength and tone were intact. She had intact sensation. Her gait was normal, page 21 – 25. The [redacted] on [redacted] noted her reality contact was good. Thoughts were logical, coherent and goal directed. Judgment and insight was good, pages 12 – 17. The Claimant was morbidly obese with a body mass index of 42. She had normal range of motion of all joints. Motor strength and tone were normal. She had intact sensation. Gait was normal. The medical evidence shows that she may be depressed and anxious at times. She still able to remember, understand communicate with others. As a result of the claimant's severe physical and mental conditions, she is restricted to performing medium unskilled work. She retains the capacity to lift up to 50 pounds occasionally, 25 pounds frequently and stand and walk for up to six of eight hours.

At Step 2, Claimant's impairments do no 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 does have medical improvement and his medical improvement is related to the Claimant's ability to perform substantial gainful activity.

Thus, this Administrative Law Judge finds that Claimant's. 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 at least sedentary work even with her impairments. This Administrative Law Judge finds that Claimant does have medical improvement.

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 could probably perform his past work as a [redacted]

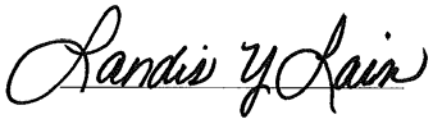
In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the Claimant can do any other work, given the Claimant's residual function capacity and Claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, based upon the Claimant's vocational profile of **a younger individual at age [redacted] with a less than [redacted] and a history of light exertional [redacted]**, MA-P is denied using Vocational Rule **202.17** 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 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 have medical improvement based upon the objective medical findings in the file.

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: 3/3/14

Date Mailed: 3/4/14

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

LYL/tb

cc: [redacted]