

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-18553
Issue No(s): 4009
Case No.: [REDACTED]
Hearing Date: April 17, 2014
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, telephone hearing was held on Thursday, April 17, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. The Claimant's authorized hearing representative, [REDACTED], was not present at the hearing. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF.

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) benefit program?

FINDINGS OF FACT

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

1. The Claimant was approved for SDA by the Medical Review Team (MRT) with medical review due on September 2013.
2. On December 6, 2013, the MRT denied the Claimant's medical review for SDA stating that the Claimant had medical improvement.
3. On December 9, 2013, the Department Caseworker sent the Claimant a notice that her medical review was denied for SDA.

4. On December 16, 2013, the Department received a hearing request from the Claimant, contesting the Department's negative action.
5. On February 19, 2014, the State Hearing Review Team (SHRT) considered the submitted objective medical evidence in making its determination of medical review of SDA for the Claimant. The Claimant is [REDACTED] years old with an [REDACTED]. She alleges disability due to depression and anxiety. Based on the ALJ, the Claimant retains the capacity to perform sedentary, unskilled work with vocational profile (younger individual [REDACTED], and sedentary work history); SDA is denied using Vocational Rule 203.25 as a guide and per BEM 261.
6. The Claimant is a [REDACTED] year-old [REDACTED] whose [REDACTED]. The Claimant is 5' 3" tall and weighs 162 pounds. The Claimant has completed [REDACTED]. The Claimant can read and write, but cannot do basic math. The Claimant was last employed as a [REDACTED]. The Claimant has also been employed as a [REDACTED] and [REDACTED] at the light level.
7. The Claimant's alleged impairments are depression and anxiety.

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 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 Department's Program Eligibility Manual provides the following policy statements and instructions for caseworkers regarding the SDA program.

DISABILITY – SDA DEPARTMENT POLICY SDA

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Note: There is no disability requirement for AMP. PEM 261, p. 1.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the Claimant's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Other Benefits or Services

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- . Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- . Supplemental Security Income (SSI), due to disability or blindness.
- . Medicaid (including spend-down) as blind or disabled if the disability/blindness is based on:
 - .. a DE/MRT/SRT determination, or
 - .. a hearing decision, or
 - .. having SSI based on blindness or disability recently terminated (within the past 12 months) for financial reasons.

Medicaid received by former SSI recipients based on policies in PEM 150 under "**SSI TERMINATIONS,**" INCLUDING "**MA While Appealing Disability Termination,**" does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria. See "**Medical Certification of Disability**" below.

- . Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has an active MRS case. Do not refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.
- . Special education services from the local intermediate school district. To qualify, the person may be:
 - .. attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - .. not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as “special education” as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- . Refugee or asylee who lost eligibility for Social Security Income (SSI) due to exceeding the maximum time limit PEM, Item 261, pp. 1-2.

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).

Step 1

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 2004. Therefore, the Claimant is not disqualified from receiving disability at Step 1.

Step 2

In the second step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record will 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, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). This Administrative Law Judge finds that the Claimant's impairments do not rise to the level necessary to be listed as disabling by law. Therefore, the Claimant is disqualified from receiving disability at Step 2.

Step 3

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.

On [REDACTED], the Claimant was seen by [REDACTED] for a medication review. The Claimant was a tall, obese, black female dressed in a short T-shirt who was smelling bad and does maintain intermittent contact. She was currently not suicidal or homicidal. She denied auditory hallucinations. She had limited insight. The Claimant had significant cognitive deficits and disorganization, which made the practitioner think that there was drug use.. The Claimant has had drug use issues in the past. The practitioner's assessment was bipolar disorder II and cognitive disorder, nos. The Claimant did admit to using drugs occasionally. The Claimant's GAF was 55. The

Claimant had moderate symptoms of a flat affect and circumstantial speech and occasional panic attacks or moderate difficulty in social, occupational, or school functioning. Department Exhibit 96-100.

On [REDACTED], the Claimant was seen at [REDACTED]. The Claimant presented with [REDACTED] where she was found on the ground with no injuries noted. The Claimant presented with an altered mental state where she was found sleeping on the ground by EMS. The Claimant was sleepy but appropriately conversational. The Claimant has a history of [REDACTED] for which he takes [REDACTED]. The Claimant was otherwise healthy with no chronic medical problems. Department Exhibit 35-40.

On [REDACTED], the Claimant had a follow-up with [REDACTED]. The treating physician assessment was iron deficiency anemia. The Claimant has had an infusion of iron dextran. Department Exhibit 121.

On [REDACTED], the Claimant had a [REDACTED] by her treating psychiatrist at [REDACTED]. The Claimant was diagnosed with bipolar disorder II versus NOS, PTSD, severe learning disabilities in math and reading, rule out ADHD. The Claimant was neat and clean and unkempt and disheveled. She appeared below average for intellectual assessment. She had normal communication. She had a cooperative and depressed mood. Her affect was primarily appropriate. She had normal speech for her age and intellect. Her thought content and perceptions were unremarkable. She had normal/alert behavior and motor activity. She was oriented to person, place, and time. She had fair insight. Her memory was impaired short-term. She was intact with reality. Department Exhibit 108-114.

At Step 3, this Administrative Law Judge finds that the Claimant does have medical improvement and her medical improvement is related to the Claimant's ability to perform substantial gainful activity. The Claimant was still having problems with substance abuse issues as reflected in her emergency room visit at [REDACTED]. The Claimant did relapse and [REDACTED]. She was referred back to [REDACTED] for treatment. The Claimant is able to perform simple, unskilled work. Therefore, the Claimant is disqualified from receiving disability at Step 3 and has shown medical improvement if she continues treatment and taking her medications.

Step 4

In Step 4 of the sequential evaluation, the trier of fact must determine whether medical improvement is related to Claimant's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv). 20 CFR 416.994(b)(5)(iv) finding of this Administrative Law Judge, after careful review of the record, that there has been medical improvement where she can perform her past work. The Claimant was last employed as a [REDACTED] at the medium level in [REDACTED] and a [REDACTED].

At Step 4, the Claimant testified that she does perform some of her daily living activities. The Claimant testified that her condition has gotten worse because she is still trying to get the right medications for her mental impairments. She did have mental impairments of depression and anxiety, where she was taking medications and in therapy at Interact. The Claimant has one cigarette a day. She [REDACTED] where before she did not know how much she drank. She stopped [REDACTED]
[REDACTED]

This Administrative Law Judge finds that the Claimant's medical improvement is related to her ability to do work. The Claimant is taking medication and in therapy for her mental impairments. The Claimant completed the [REDACTED]. The Claimant should be able to perform at least simple, unskilled work. Therefore, the Claimant is disqualified from receiving disability at Step 4 where the Claimant can perform simple, unskilled work. The Claimant's past work as a [REDACTED] and [REDACTED] [REDACTED] were performed at the simple and unskilled level. 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.

Step 6

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 simple, unskilled work while she is in treatment and taking medications for her mental impairments. See Steps 3 and 4. Therefore, the Claimant is not disqualified from receiving disability at Step 6 where the Claimant passes for severity.

Step 7

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. At Step 7, the Claimant has previously been employed at the simple, unskilled level as a [REDACTED]. In this case, this Administrative Law Judge finds that Claimant should be able to perform simple, unskilled work. The Claimant is capable of performing her past, relevant work. See Steps 3 and 4. Therefore, the Claimant is disqualified from receiving disability at Step 7 where the Claimant is capable of performing her past, relevant work.

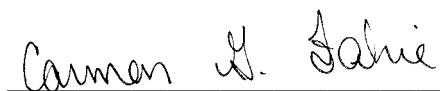
Step 8

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, with a limited education, and a history of simple, unskilled, MA-P is denied using Vocational Rule 204.00 as a guide. The Medical-Vocational guidelines are not strictly applied with non-exertional impairments such as depression and anxiety. 20 CFR 404, Subpart P, Appendix 2, Section 200.00. 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 closed Claimant's SDA case based upon medical improvement.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant not disabled for purposes of the medical review of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.



Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/16/14

Date Mailed: 7/17/14

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 Claimant;
- 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

CGF/tb

cc:

