

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

IN THE MATTER OF:



Reg. No.: 201429360
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: June 24, 2014
County: Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 June 24, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny her review application for 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. The Claimant was an ongoing Medical Assistance (M.A.) and State Disability Assistance (SDA) recipient based on disability.
2. On September 1, 2013, the Department initiated a review of the Claimant's continued eligibility to receive benefits and determine if there has been medical improvement.
3. On January 25, 2014, the Medical Review Team (MRT) determined that the Claimant no longer met the disability standard for Medical Assistance (MA) and State Disability Assistance (SDA) because it determined that the Claimant's condition had improved.

4. On February 3, 2014, the Department sent the Claimant notice that it would close her Medical Assistance (MA) and State Disability Assistance (SDA) benefits due to the determination of the Medical Review Team (MRT).
5. On February 18, 2014, the Department received the Claimant's hearing request, protesting the denial of State Disability Assistance (SDA) benefits only.
6. On April 11, 2014, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of State Disability Assistance (SDA) benefits.
7. The Claimant is a 29-year-old woman whose birth date is [REDACTED].
8. The Claimant is 5' 4" tall and weighs 238 pounds.
9. The Claimant is a high school graduate.
10. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
11. The Claimant alleges disability due to back pain, impaired vision, asthma, migraines, a learning disability, depression, anxiety, panic disorder, and ovarian cyst.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The 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 BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment, which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the State Disability Assistance (SDA) program.

First, the Claimant's impairments are evaluated to determine whether they fit the description of a Social Security Administration disability listing in 20 CFR Part 404, Subpart P, Appendix 1. A Claimant that meets one of these listing that meets the duration requirements is considered to be disabled.

The Claimant's impairment failed to meet the listing for a back injury under section 1.04 Disorders of the spine, because the objective medical evidence does not demonstrate

that the Claimant suffers from nerve root compression resulting in loss of motor strength or reflexes, or resulting in a positive straight leg test. The objective medical evidence does not demonstrate that the Claimant has been diagnosed with spinal arachnoiditis. The objective medical evidence does not support a finding that the Claimant's impairment has resulted in an inability to ambulate effectively. A physician determined that the Claimant has a normal range of motion throughout her body and that she is capable of effective and unassisted ambulation.

The Claimant's impairment failed to meet the listing for impaired vision under section 2.02 Loss of visual acuity because the evidence on the record does not support a finding that the Claimant has remaining vision in her better eye that has been measured with a visual acuity of 20/200 or less. A treating optometrist determined that the Claimant does not require prescription lenses.

The Claimant's impairment failed to meet the listing for asthma under section 3.03 Asthma because the objective medical evidence does not support a finding that she suffers from chronic obstructive pulmonary disease. The evidence on the record does not support a finding that the Claimant suffers from asthma attacks in spite of prescribed treatment that require physician intervention or hospitalization.

The Claimant's impairment failed to meet the listing for a learning disability under section 12.05 Intellectual disability because the evidence on the record does not support a finding that the Claimant is not capable of caring for her personal needs such as toileting, eating, dressing, bathing, or following directions. A consultative psychologist found the Claimant to have no difficulty understanding, remembering, and following simple repetitive concrete tasks. The evidence on the record does not support a finding that the Claimant has been found to have a full scale intelligence quotient (IQ) of 59 or less, a performance IQ of 60 through 70, or a verbal IQ of 60 through 70.

The Claimant's impairment failed to meet the listing for depression under section 12.04 Affective disorders because the objective medical evidence does not demonstrate that the Claimant suffers from marked restrictions of activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation or is unable to function outside a highly supportive living arrangement.

The Claimant's impairment failed to meet the listing for anxiety or panic disorder under section 12.06 Anxiety-related disorders because the objective medical evidence does not demonstrate that the Claimant suffers from marked restrictions of activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation. The objective medical evidence does not demonstrate that the Claimant is completely unable to function outside the home.

The medical evidence of the Claimant's condition does not give rise to a finding that she would meet a statutory listing in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1.

Second, the Claimant's impairments are evaluated to determine whether there has been medical improvement as shown by a decrease in medical severity. 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).

This Administrative Law Judge finds that the Claimant's primary impairments are psychological in nature and not physical.

A psychologist determined that from December 12, 2011, through December 19, 2012, the Claimant had major impairments in social and occupational functioning and was unable to work. On November 21, 2013, a psychologist found the Claimant to be capable of understanding, remembering, and following simple, repetitive concrete tasks. On November 21, 2013, the psychologist found the Claimant to have moderate symptoms and moderate difficulty in social and occupational functioning.

This Administrative Law Judge finds that there has been medical improvement as shown by a decrease in medical severity.

Third, the Claimant's medical improvement is evaluated to determine whether it is related to her ability to do work.

The Claimant has been diagnosed with a learning disability and has been found by a psychologist to be in the borderline intellectual functioning range. The Claimant's impairments are a limitation of her ability to remember and follow work related instructions. The evidence on the record supports a finding that the Claimant has experienced improvement of her ability to concentrate, follow simple instructions, social functioning, and occupational functioning. These improvements are related to her ability to perform work.

Fourth, the Claimant's impairments are evaluated to determine whether current impairments result in a severely restrictive physical or mental impairment.

The Claimant is a 29-year-old woman that is 5' 4" tall and weighs 238 pounds.

A consultative psychologist found the Claimant to have no posture or gait problems. The consultative psychologist found the Claimant to be fully oriented, alert, and her responses to be nonspontaneous. The consultative psychologist diagnosed the Claimant with panic disorder without agoraphobia, persistent depressive disorder, and borderline intellectual functioning. The consultative psychologist found the Claimant to have no difficulty understanding, remembering, and following simple, repetitive concrete tasks. The consultative psychologist found the Claimant to have a markedly limited ability to understand and remember detailed instructions. The consultative psychologist found the Claimant to have moderate symptoms and moderate difficulty in social and occupational functioning.

A social worker diagnosed the Claimant with mood disorder, generalized anxiety disorder, major depressive disorder, and borderline intellectual functioning.

A psychologist evaluated the Claimant on April 16, 2012, using the Wechsler Adult Intelligence Scale (WAIS-IV), and found her to have a full score intelligence quotient (IQ) 72, which is in the borderline intellectual functioning range. The Claimant was also found to have a Verbal IQ of 80, a score of 84 on the perceptual reasoning index, a working memory index of 69, a processing speed index of 68. The psychologist also found the Claimant to have major impairments in social and occupational functioning and is unable to work.

A treating optometrist determined that the Claimant does not require prescription lenses.

The Claimant is capable of picking up at home. The Claimant is capable of caring for a dog and fish. The Claimant is capable of caring for her personal needs without assistance including showering, dressing, and feeding herself. The Claimant is capable of preparing meals. The Claimant enjoys reading, cross stitching, and drawing.

A physician determined that the Claimant has a normal range of motion throughout her body and that she is capable of effective and unassisted ambulation.

The evidence on the record indicates that the Claimant's was been diagnosed with a learning disability by a psychologist, which has resulted in significant impairments to remember and perform work related tasks. Therefore, this Administrative Law Judge finds a severe physical impairment that has more than a de minimus effect on the Claimant's ability to perform work activities. The Claimant's impairments have lasted continuously, or are expected to last for twelve months.

Fifth, the Claimant's impairments are evaluated to determine whether you can still do work you have done in the past.

The evidence on the record does not support a finding that the Claimant has any past relevant work experience. There is no evidence upon which this Administrative Law Judge could base a finding that the Claimant is able to perform work in which she has engaged in, in the past. The Claimant is not disqualified from receiving disability benefits at this step.

Sixth, the Department has the burden to establish that the Claimant has the Residual Functional Capacity (RFC) for Substantial Gainful Activity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium, and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor... 20 CFR 416.967.

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even

though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

To determine the skills required in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. These terms have the same meaning as defined in. 20 CFR 416.968.

Unskilled work. Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs. 20 CFR 416.968(a).

The objective medical evidence indicates that the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior employment and that she is physically able to do light or sedentary work if demanded of her. The Claimant's activities of daily living do not appear to be very limited and she should be able to perform light or sedentary work even with her impairments. The Claimant should have no difficulty understanding, remembering, and following simple, repetitive concrete tasks.

Claimant is 29-years-old, a younger person, under age 50, with a high school education, and a no work history. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform light work, and State Disability Assistance (SDA) is denied using Vocational Rule 20 CFR 202.20 as a guide.

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. BEM 261. 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 the Claimant is unable to work for a period exceeding 90 days, the Claimant does not meet the disability criteria for State Disability Assistance benefits.

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 disabled not disabled for purposes of the State Disability Assistance.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED** **REVERSED**.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 14, 2014

Date Mailed: July 14, 2014

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 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

KS/hj

cc:

