

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003564
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: August 7, 2014
County: Washtenaw

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 August 7, 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].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny his 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 (MA) and State Disability Assistance (SDA) recipient based on disability.
2. The Department initiated a review of the Claimant's continued eligibility to receive benefits and determine if there has been medical improvement.
3. On May 19, 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 May 20, 2014, the Department sent the Claimant notice that it would close his State Disability Assistance (SDA) benefits due to the determination of the Medical Review Team (MRT).
5. On May 28, 2014, the Department received the Claimant's hearing request, protesting the denial of disability benefits.

6. The Claimant is a 58-year-old man whose birth date is [REDACTED].
7. Claimant is 5' 7" tall and weighs 170 pounds.
8. The Claimant is a high school graduate.
9. The Claimant is able to read and write and does have basic math skills.
10. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
11. The Claimant has past relevant work experience working as a cook where he was required to prepare 1,500 meals each day and lift objects weighing as much as 15 pounds.
12. The Claimant alleges disability due to hypertension, gout, chest pain, shortness of breath, asthma, depression, sleep problems, gastroesophageal reflux disease, and diabetes.

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 42 CFR 435, MCL 400.10 et seq. and Mich Admin Code, Rules 400.3151 – 400.3180. 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) programs.

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 gout because the objective medical evidence does not demonstrate persistent inflammation or persistent deformity that prevents effective ambulation. The evidence does not support a finding of inflammation or deformity in peripheral joints with involvement of two or more body systems and two constitutional symptoms. The evidence does not support a finding of ankylosing spondylitis. The evidence does not support a finding of repeated

manifestations of inflammatory arthritis that markedly limits activities of daily living, social functioning, concentration, persistence, or pace.

The Claimant's impairment failed to meet the listing for asthma under section 3.00 Asthma because the objective medical evidence does not support a finding of severe symptoms of chronic pulmonary insufficiency. The objective medical evidence does not support a finding that the Claimant suffers from asthma attacks in spite of prescribed treatment requiring physician intervention at least six times a year.

The Claimant's impairment failed to meet the listing for sleep problems under section 3.10 Sleep-related breathing disorders because the objective medical evidence does not demonstrate a finding of cor pulmonale with a mean pulmonary artery pressure greater than 40 mm Hg, or arterial hypoxemia.

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 has been diagnosed with depression and has serious symptoms and serious impairments in social and occupational functioning. Despite the Claimant's symptoms of depression, he remains oriented, functional, and capable of performing simple work related tasks.

The effects of hypertension are most readily observed through its impairments of other body systems. The Claimant's impairment does not meet a listing for hypertension. The objective medical evidence indicates that medical evidence does not support a finding of a severe impairment of a body system secondary to severe hypertension. The Claimant's hypertension will be further considered when evaluating his residual functional capacity.

The effects of diabetes are most readily observed through its impairments of other body systems. The Claimant's impairment failed to meet the listing for diabetes under Section 9.00 Endocrine because the objective medical evidence does not support a finding of another severe impairment in another body system caused by diabetes. The Claimant's diabetes will be further considered when evaluating his residual functional capacity.

The medical evidence of the Claimant's condition does not give rise to a finding that he 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).

In 2012, the Claimant presented objective medical evidence demonstrating that he was unable to engage in a full range of even sedentary work activities on a regular and continuing basis. On [REDACTED], a physician determined that the Claimant was capable of lifting 20 pounds frequently, and 50 pounds occasionally. A physician found the Claimant to be capable of grasping, reaching, pushing, pulling, and manipulate objects with both hands, as well as operate foot controls. 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 his ability to do work.

The Claimant is capable of lifting, carrying, pushing, and pulling objects and is capable of performing tasks that needs little or no judgment to do and simple duties that can be learned on the job in a short period of time.

This Administrative Law Judge finds that the Claimant's improvement is related to his 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 58-year-old man that is 5' 7" tall and weighs 170 pounds.

A physician determined that the Claimant is capable of lifting 20 pounds frequently, and 50 pounds occasionally. A physician determined that the Claimant is capable of grasping, reaching, pushing, pulling, and manipulating objects with either hand, and operating foot controls with either foot. The Claimant has serious symptoms of depression and serious impairments in social and occupational functioning, but retains the ability to perform simple repetitive tasks that require little or no judgment.

This Administrative Law Judge finds that the Claimant has failed to established a severe physical impairment that prevents all work for more than 90 days.

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

The Claimant has past relevant work experience as a cook where he was required to lift objects weighing up to 15 pounds while cooking 1,500 meals each day. The Claimant's prior work fits the description of light work. After careful consideration of the entire record, this Administrative Law Judge finds that the Claimant has the residual functional capacity to perform medium work as defined in 20 CFR 404.1567 and 416.967.

There is no evidence upon which this Administrative Law Judge could base a finding that the Claimant is unable to perform work in which he has engaged in, in the past.

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).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

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 his prior employment and that he is physically able to do medium work if demanded of his. The Claimant's activities of daily living do not appear to be very limited and he should be able to perform medium work even with his impairments. The Claimant's testimony as to his limitations indicates that he should be able to perform medium work.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

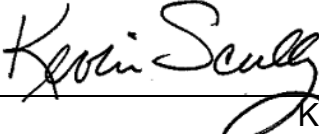
Claimant is 58-years-old, a person of advanced age, over 55, with a high school education, and a history of unskilled work. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform medium work. State Disability Assistance (SDA) is denied using Vocational Rule 203.14 as a guideline.

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 not disabled for purposes of the State Disability Assistance.

DECISION AND ORDER

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



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

Date Signed: **8/27/2014**

Date Mailed: **8/27/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

