

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006697
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: Genesee #2

ADMINISTRATIVE LAW JUDGE: Susanne Harris

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, an in-person hearing was held on September 24, 2014, from Flint, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator, [REDACTED].

Whether the Department properly determined that the Claimant was no longer disabled and denied her 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. The Claimant was an MA-P and SDA benefit recipient and her cases were scheduled for review in June, 2014.
2. At some time prior to the review, the Claimant filed a Redetermination for MA and SDA benefits alleging continued disability.
3. On July 7, 2014, the Medical Review Team denied the Claimant's application indicating that the Claimant was denied for continuing eligibility.
4. On July 8, 2014, the Department sent the Claimant notice that her MA and SDA cases would be closed based upon medical improvement.
5. On July 15, 2014, the Claimant filed a request for a hearing to contest the Department's negative action.

6. The Claimant was receiving MA and SDA at the time of this review.
7. The Claimant alleges her disabling impairments are fibromyalgia; ovarian cyst syndrome; carpal tunnel syndrome; endometriosis; depression; panic attacks; interstitial cystitis, adhesions and scar tissue.
8. The Claimant is a [REDACTED]-year-old [REDACTED] whose [REDACTED].
9. The Claimant is 5'7" tall and weighs 187 pounds.
10. The Claimant has two [REDACTED] and she is able to read and write and does have basic math skills.
11. The Claimant last worked in [REDACTED].

PROCEDURAL HISTORY:

This hearing was originally scheduled to be held on [REDACTED]. On [REDACTED], the Michigan Administrative Hearing System did receive a letter from the Claimant requesting an adjournment of the hearing. On [REDACTED], Administrative Law Judge [REDACTED] granted the Claimant's request and issued an Adjournment Order. The hearing was rescheduled to [REDACTED] and commenced as rescheduled.

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 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 Claimant is determined eligible for disability benefits; the eligibility for such benefits must be reviewed periodically. Before determining that a Claimant is no longer eligible for disability

benefits, the agency must establish that there has been a medical improvement of the Claimant's impairment that is related to the Claimant'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 most 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 question asks:

- (i) Are you engaging in substantial gainful activity? If you are (and any applicable trial work period has been completed), we will find disability to have ended (see paragraph (b)(3)(v) of this section).

The 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 the 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 were disabled or continued 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 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 laboratory 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 your ability to do work, we will assess your residual functional capacity (in accordance with paragraph (b)(1)(iv) of this section) based on the current severity of the impairment(s) which was present at your last favorable medical decision. 20 CFR 416.994(b)(2)(ii).

The Medical Review Team found the Claimant's medical condition had improved. Pursuant to the federal regulations, at medical review, the Department has the burden of not only proving the Claimant's medical condition has improved, but that the improvement relates to the Claimant's ability to do basic work activities. The Department has the burden of establishing that the 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 case, the only evidence of any medical improvement in the Claimant's condition are two DHS-49, Medical Examination Reports, one of which was completed by [REDACTED] which the Claimant contests as being accurate. The Claimant had [REDACTED] complete another DHS-49, [REDACTED] which indicates that the Claimant's condition is not stable but is indeed deteriorating. Furthermore, the Claimant presented a Residual Functional Capacity Assessment completed by [REDACTED] [REDACTED] indicates that the doctor believes that the Claimant can never return to work. It indicates that the Claimant receives nerve blocks for her pain. It indicates that the Claimant cannot work even an hour in a day. The Claimant cannot stand for more than 15 minutes at a time. The Claimant has serious limitations with sitting and cannot lift more than 5 pounds. The Claimant needs to elevate her legs frequently during an eight hour day. It indicates that the Claimant must urinate frequently throughout the day. The Claimant has extreme pain in her back, groin area, pelvis, leg and thigh.

In this case, the Department has not met its burden of proof. The Department has provided no evidence that indicates the Claimant's condition has improved, or that the alleged improvement relates to her ability to do basic work activities. The Department provided no objective medical evidence from qualified medical sources that show the Claimant is currently capable of doing basic work activities. Accordingly, the Department's SDA and MA eligibility determination cannot be upheld at this time.

DECISION AND ORDER

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

Accordingly, the Department's action is REVERSED, and this case is returned to the local office for benefit continuation as long as all other eligibility criteria are met, with Claimant's next mandatory medical review scheduled in May, 2015, (unless she is approved eligible for Social Security disability benefits by that time).

It is SO ORDERED.



Susanne Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/7/2014**

Date Mailed: **10/7/2014**

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 Claimant;

- 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

SEH / tb

cc:

