

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-33825
Issue Nos.: 2009, 4009
Case No.: ██████████
Hearing Date: September 10, 2014
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 10, 2014, from Warren, Michigan. Participants on behalf of Claimant included Claimant ██████████ Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the State Disability Assistance (SDA) program?

FINDINGS OF FACT

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

1. On January 24, 2013, Claimant was found disabled for purposes of the MA-P and SDA programs.
2. On March 14, 2014, the Medical Review Team denied Claimant's request for continued MA-P and SDA benefits.
3. On March 25, 2014, Claimant submitted to the Department a request for hearing.
4. The State Hearing Review Team (SHRT) denied Claimant's request.
5. Claimant is 54 years old.

6. Claimant completed education through the 11th grade.
7. Claimant has employment experience in the last 15 years.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from back pain, hypertension, neck pain, shortness of breath, degenerative disc disease, kidney disease, depression. Claimant alleged new medical condition [REDACTED]; namely, a diagnosis of COPD.
10. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement

who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

In order to receive MA benefits based upon disability or blindness, Claimant must be disabled or blind as defined in Title XVI of the Social Security Act (20R 416.901). The Department, being authorized to make such disability determinations, utilizes the SSI definition of disability when making medical decisions on MA applications. MA-P (disability), also is known as Medicaid, which is a program designated to help public assistance claimants pay their medical expenses.

The law defines disability as the inability to do substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. (20 CFR 416.905).

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 a substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first step to be considered is whether the claimant can perform Substantial Gainful Activity (SGA) defined in 20 CFR 416.920(b). In this case, Claimant is not working. Therefore, Claimant is not disqualified at this step in the evaluation.

In the second step, the trier of fact must determine if the claimant’s impairment (or combination of impairments) meets or equals the severity of an impairment listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant’s medical record does 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, the sequential evaluation process must continue.

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 any decrease in the medical severity of the claimant's impairment(s) which was present at the time of the most recent favorable medical decision that the claimant was 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 the claimant's impairment(s) (see §416.928). 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 this case, Claimant was most recently approved for MA-P [REDACTED]. The Administrative Law Judge, after comparing past medical documentation with current medical documentation, finds there is no medical improvement.

Claimant testified to the following symptoms and abilities: shortness of breath, dizzy spells, just walking to the neighbor's causes loss of breath, uses multiple breathing assistive devices, on oxygen all day, uses rescue inhalers twice a day, not able to breath at times and she falls down, nausea problems, has vomiting spells weekly, lower back pain, still having troubles with constipation, kidney condition has improved, can walk 50 feet on a good day, can stand only a few minutes, able to sit a few minutes, spends most of the time in bed, gets help with household chores, needs help with personal care such as showering and bathing, not able to drive, no suicidal thoughts, feelings of sadness, poor sleep at night due to the pain, she is not having the headaches as she was previously and she is now taking morphine.

In the fifth step of the sequential evaluation, the trier of fact must consider whether any of the exceptions in 20 CFR 416.994(b)(3) and (b)(4) applies. If none of them applies, Claimant's disability must be found to continue. 20 CFR 416.994(b)(5)(v).

The first group of exceptions to medical improvement (i.e., when disability can be found to have ended even though medical improvement has not occurred), found in 20 CFR 416.994(b)(3), is as follows:

- *Substantial evidence shows that you are the beneficiary of advances in medical or vocational therapy or technology (related to your ability to work).*
- *Substantial evidence shows that you have undergone vocational therapy (related to your ability to work).*
- *Substantial evidence shows that based on new or improved diagnostic or evaluative techniques your impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable decision.*
- *Substantial evidence demonstrates that any prior disability decision was in error.*

In examining the record, this Administrative Law Judge finds that there is nothing to suggest that any of the exceptions listed above applies to Claimant's case.

The second group of exceptions to medical improvement, found at 20 CFR 416.994(b)(4), is as follows:

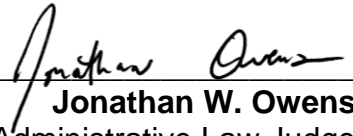
- *A prior determination or decision was fraudulently obtained.*
- *You did not cooperate with us.*
- *Claimant cannot be found.*
- *Claimant failed to follow prescribed treatment which would be expected to restore your ability to engage in substantial gainful activity.*

After careful review of the record, this Administrative Law Judge finds none of the above-mentioned exceptions applies to Claimant's case. Accordingly, per 20 CFR 416.994, this Administrative Law Judge concludes that Claimant's disability for purposes of Medical Assistance and State Disability Assistance must continue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant continues to be medically disabled.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to maintain Claimant's eligibility for MA and SDA if otherwise eligible for program benefits. A review of this case shall be set for December 2015.


Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 14, 2014

Date Mailed: October 15, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JWO/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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