

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

IN THE MATTER OF:



Reg. No.: 14-007582
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 16, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 16, 2014 from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's State Disability Assistance (SDA) eligibility for the reason that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. Claimant was an ongoing SDA recipient.
2. Claimant's only basis for SDA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).
4. On [REDACTED], DHS terminated Claimant's SDA eligibility, effective 8/2014, and mailed a Notice of Case Action (Exhibits 116-119) informing Claimant of the denial.

5. On [REDACTED], Claimant requested a hearing disputing the termination of SDA benefits.
6. As of the date of the administrative hearing, Claimant was a 46 year old female with a height of 5'7" and weight of 190 pounds.
7. Claimant has no known relevant history of alcohol or illegal substance abuse.
8. Claimant's highest education year completed was the 12th grade, via general equivalency degree.
9. As of the date of the administrative hearing, Claimant was an ongoing Medicaid recipient since 2/2013.
10. Claimant alleged disability based on impairments and issues including nerve damage in right hand, bipolar disorder, attention deficit hyperactivity disorder (ADHD), and left knee cartilage damage.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (7/2014), p. 1.

A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, 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; or
 - is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
- Id.*

Claimant was previously certified by an administrative law judge as unable to work for at least 90 days (see Exhibits 104-115). At Claimant's most recent SDA benefit redetermination, DHS determined that Claimant was no longer disabled.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any 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. The definition of SDA disability is identical except that only a 90 day period is required to establish disability.

Substantial gainful activity means a person does the following: performs significant duties, does them for a reasonable length of time, and does a job normally done for pay or profit. BEM 260 (7/2014), p. 10. Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

Once an individual has been found disabled for purposes of disability benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994. In the present case, the Medical Review Team determined that Claimant had medical improvement and was no longer disabled.

In evaluating a claim for ongoing disability benefits, federal regulations require a sequential evaluation process be utilized. 20 CFR 416.994(b)(5). The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. *Id.* Prior to deciding if an individual's disability has ended, the department will develop, along with the Claimant's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

The below described evaluation process is applicable for clients that have not worked during a period of disability benefit eligibility. There was an absence of evidence suggesting that Claimant received any wages since receiving disability benefits.

The first step in the analysis in determining the status of a claimant's disability requires the trier of fact to consider the severity of the impairment(s) and whether it meets or equals a listed impairment in Appendix 1 of subpart P of part 404 of Chapter 20. 20 CFR 416.994(b)(5)(i). If a listing is met, an individual's disability is found to continue and no further analysis is required. This consideration requires a summary and analysis of presented medical documents.

Various counseling and psychiatric treatment notes (Exhibits 32-87) were presented. The notes ranged in date from 3/2013-4/2014. Claimant's counseling and medication

treatment for diagnoses of bipolar disorder and ADHD were noted. It was regularly noted that Claimant remained abstinent from alcohol and drugs since 2/2012. It was regularly noted that Claimant complained of mood swings. It was regularly noted that Claimant attempted coping skills to deal with difficult emotions.

A Psychiatric/Psychological Examination Report (Exhibits 25-27) dated [REDACTED] was presented. The form was completed by a treating psychiatrist with a 5 year history of treating Claimant. Noted observations included the following: orientation x3, intact memory, depressed and anxious mood, and decreased energy. It was noted that Claimant received mental health treatment since she was 17 years old. Current medications were noted to be Risperdal, Strattera, and Trazodone. Diagnoses of bipolar disorder and ADHD were noted. Claimant's GAF was noted to be 50.

A Medical Examination Report (Exhibits 22-24) dated [REDACTED] was presented. The form was completed by a family medicine physician with a 1 appointment history of treating Claimant. Claimant's physician listed diagnoses of bilateral knee instability and pain, left shoulder pain, and right hand pain. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs. Claimant's physician opined that Claimant was restricted to less than 2 hours of standing and/or walking per 8 hour workday. Claimant's physician opined that Claimant was restricted to occasional lifting/carrying of 20 pounds, and never more than 25 pounds. Sitting and repetitive action restrictions were not noted. The listed basis for restrictions was knee swelling.

Physician office visit documents dated [REDACTED] were presented. It was noted that Claimant complained of bilateral knee pain and left knee instability. Left shoulder pain and right hand pain were also reported. It was noted that Claimant could sit, perform fine manipulation, reach, and grasp. A consultation with an orthopedist was recommended.

A physician note (Exhibit 90) dated [REDACTED] was presented. It was noted that Claimant presented for follow-up to lab testing showing liver function enzymes that were four times normal limits.

A mental status examination report (Exhibits 4-9) dated [REDACTED] was presented. The report was completed by a limited licensed psychologist and signed-off by a psychiatrist. Reported problems by Claimant included the following: racing thoughts, insomnia, lack of focus, difficulties with socializing, inability to finish projects, crying spells, helplessness, and low self-esteem. Noted observations included the following: clear speech and communication, poor historian, appropriate grooming and hygiene, responds well to instructions, and responds well to criticism. It was noted that Claimant reported that she independently performs ADLs though she gets easily overwhelmed and confused. Claimant reported multi-decade cannabis, cocaine, and alcohol abuse. It was noted that Claimant stopped using drugs and alcohol in 2/2012. Diagnoses of bipolar disorder, ADHD, and learning disorder were noted. It was opined that Claimant could carry out simple instructions though Claimant would have mild difficulty with

complex tasks. A fair prognosis was noted. It was noted that Claimant may have difficulties in work setting with socializing, based on Claimant's reported history.

Claimant's most prominent impairment appears to be symptoms related to bipolar disorder, exacerbated by ADHD. Bipolar disorder is an affective disorder covered by Listing 12.04 which reads as follows:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or

3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Starting with Part A, sufficient complaints of concentration difficulties, sleep disturbance, decreased energy, and anhedonia were verified. It is found that Claimant meets Part A of the above listing. Turning to Part B of the above listing, marked restrictions were determined by Claimant's psychiatrist.

A Mental Residual Functional Capacity Assessment (Exhibits 28-29) dated [REDACTED] was presented. The assessment was noted as completed by Claimant's treating psychiatrist. This form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. Claimant was found markedly restricted in the following abilities:

- Remembering locations and other work-like procedures
- Understanding and remembering detailed instructions
- Carrying out detailed instructions
- Maintaining concentration for extended periods
- Working in coordination or proximity to other without being distracting
- Completing a normal workday without psychological symptom interruption
- Accepting instructions and responding appropriately to criticism
- Setting realistic goals or making plans independently of others.

Claimant's psychiatrist also determined that Claimant was limited in several areas. Claimant was found moderately limited in the following abilities:

- Understanding and remembering 1 or 2-step directions
- Carrying out simple 1-2 step directions.
- Performing activities within a schedule and maintaining attendance and punctuality
- Sustaining an ordinary routine without supervision

- Making simple work-related decisions
- Interacting appropriately with the general public
- Asking simple questions or requesting assistance
- Getting along with others without exhibiting behavioral extremes
- Responding appropriately to changes in the work setting
- Being aware of normal hazards and taking appropriate precautions
- Traveling to unfamiliar places including use of public transportation

In all, Claimant was markedly or moderately restricted in 18 of the form's listed 20 abilities. Such restrictions are consistent with meeting SSA listing requirements.

Claimant's GAF was found to be 50. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's GAF is consistent with marked restrictions that meet SSA listing requirements.

Treatment records verified that Claimant has a multi-decade history of mental health problems and treatment. Records also suggested that Claimant had drug and alcohol problems (which are currently in remission). The evidence suggested that Claimant is compliant with counseling and medications, yet, many and significant obstacles to employment remain. It is also worth noting that Claimant appears to have shown little progress since the initial finding of disability.

A State of Michigan Hearing Decision (Exhibits 104-115) dated [REDACTED] was presented. The decision found that Claimant met the affective disorder listing, and was therefore disabled and eligible for SDA benefits. The disability finding was based, in part, on Claimant's marked restrictions in 14 of 20 work-related abilities on a Mental Residual Functional Capacity Assessment. The disability finding was based, in part, on diagnoses of bipolar disorder and ADHD with symptoms of mood swings, irritability, troubled sleep, and poor concentration. Claimant's GAF was noted to be 50.

Claimant's GAF has not increased since the initial finding of disability. Numerous marked restrictions persist.

Based on the presented evidence, it is found that Claimant meets the SSA listing for affective disorders. Accordingly, Claimant is a disabled individual and it is found that DHS improperly terminated Claimant's SDA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly terminated Claimant's SDA benefit eligibility. It is ordered that DHS:

- (1) reinstate Claimant's SDA eligibility, effective 8/2014, subject to the finding that Claimant is a disabled individual;
- (2) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (3) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/3/2014**

Date Mailed: **11/3/2014**

CG / hw

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:

