

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

IN THE MATTER OF:



Reg. No.: 14-005336
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 6, 2014
County: Wayne (55)

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 6, 2014, from Detroit, Michigan. Participants included the above-named Claimant, via telephone.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility for State Disability Assistance (SDA) 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 benefit recipient.
2. Claimant's only basis for SDA eligibility was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual for purposes of SDA eligibility (see Exhibits 3-4).
4. On [REDACTED], DHS terminated Claimant's eligibility for SDA benefits, effective 7/2014, and mailed a Notice of Case Action (Exhibits 1-2) informing Claimant of the termination.
5. On [REDACTED] Claimant requested a hearing disputing the termination of SDA benefits.
6. On [REDACTED], the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual, in part, by determining that Claimant can perform past relevant employment.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant noted special arrangements in order to participate in the hearing. Claimant stated that he did not understand the question and required no special arrangements. As it happened, Claimant required a special arrangement. Claimant requested to appear for the hearing by telephone. Claimant's request was granted and the hearing was conducted accordingly.

DHS received notice that Claimant was appearing by telephone. Presumably, DHS failed to plan for the accommodation.

Normally, DHS proceeds with a hearing after a client appears at the DHS office. Claimant's approved participation by telephone resulted in DHS having to participate without notice that Claimant was prepared to proceed with the hearing. As a courtesy, the DHS hearing facilitator was emailed; no response to the email was made as of the time of hearing. The hearing facilitator was also called; voicemail was not available resulting in transfer to the DHS main office line. After approximately 15 minutes of recorded messages advising our office that our call moved from 14th to 9th in the queue, it was determined that no further efforts would be made to engage the DHS office's participation. The hearing was held without DHS representation.

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 (1/2012), 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.*

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for SDA eligibility without undergoing a medical review process (see BAM 815) which determines whether Claimant is a disabled individual. *Id.*, p. 3.

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. As noted above, SDA eligibility is based on a 90 days period of disability.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.*, p. 9.

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.*

The analysis of Claimant's benefit eligibility depends on whether Claimant was an applicant or an ongoing recipient. Once an individual has been found disabled, continued benefit 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. Claimant was an ongoing SDA recipient, based on a previous determination of disability.

In evaluating a claim for ongoing disability-based 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 no evidence stated 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.

Before the hearing, DHS forwarded a hearing packet numbered 1-1 – 1-59. Claimant credibly testified that he did not receive the packet. Claimant's testimony was particularly credible in light of DHS' failure to appear for the hearing. As a result, none of

the DHS documents were admitted as exhibits. Claimant presented no documents of disability.

Without any medical documents, a finding that Claimant meets a SSA listing is impossible. Accordingly, it is found that Claimant does not meet a SSA listing and the analysis may proceed to step two.

The second step of the analysis considers whether medical improvement occurred. CFR 416.994(b)(5)(ii). Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most favorable medical decision that the individual was disabled or continues to be disabled. 20 CFR 416.994(b)(1)(i). The analysis will begin with a summary of medical documents that were the basis of the finding that Claimant was a disabled individual.

As noted in step one, no medical documents were admitted as exhibits. Without any medical documents, or the documentation supporting the previous finding of disability, it cannot be found that Claimant has medically improved. Without a finding of medical improvement, the analysis proceeds directly to the fourth step of the analysis.

Step four considers whether any exceptions apply to a previous finding that no medical improvement occurred or that the improvement did not relate to an increase in RFC. 20 CFR 416.994(b)(5)(iv). If medical improvement related to the ability to work has not occurred and no exception applies, then benefits will continue. CFR 416.994(b). Step four lists two sets of exceptions.

The first group of exceptions allow a finding that a claimant is not disabled even when medical improvement had not occurred. The exceptions are:

- (i) Substantial evidence shows that the individual is the beneficiary of advances in medical or vocational therapy or technology (related to the ability to work);
- (ii) Substantial evidence shows that the individual has undergone vocational therapy related to the ability to work;
- (iii) Substantial evidence shows that based on new or improved diagnostic or evaluative techniques the impairment(s) is not as disabling as previously determined at the time of the most recent favorable decision;
- (iv) Substantial evidence demonstrates that any prior disability decision was in error.

20 CFR 416.994(b)(4)

If an exception from the first group of exception applies, then the claimant is deemed not disabled if it is established that the claimant can engage in substantial gainful activity. If no exception applies, then the claimant's continued disability is established.

The second group of exceptions allow a finding that a claimant is not disabled irrespective of whether medical improvement occurred. The exceptions are:

- (i) A prior determination was fraudulently obtained;
- (ii) The individual failed to cooperate;

- (iii) The individual cannot be located;
- (iv) The prescribed treatment that was expected to restore the individual's ability to engage in substantial gainful activity was not followed.
20 CFR 416.994(b)(4)

There was no evidence that any of the above exceptions are applicable. It is found that Claimant is still disabled. Accordingly, 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 eligibility. It is ordered that DHS:

- (1) reinstate Claimant's SDA eligibility, effective 7/2014, 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 benefit termination; and
- (3) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for ongoing benefits.

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

Christian Gardocki

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

Date Signed: **10/28/2014**

Date Mailed: **10/28/2014**

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:

