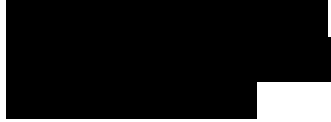


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-008477
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: October 2, 2014
County: Genesee #2

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 March 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator.

ISSUE

Did the Department of Human Services (the Department) properly determine that Claimant was no longer disabled and deny the 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. Claimant was a Medical Assistance benefit recipient and the Medical Assistance case was scheduled for review in June 2014.
2. On June 1, 2014, Claimant filed a review application for Medical Assistance and State Disability Assistance benefits alleging continued disability.
3. On July 2, 2014, the Medical Review Team denied Claimant's application stating that Claimant had medical improvement.
4. On August 5, 2014, the Department caseworker sent Claimant notice that his Medical Assistance case would be cancelled based upon medical improvement.

5. On August 8, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
6. Claimant is a [REDACTED]-year-old [REDACTED] whose [REDACTED]. Claimant is 5'7" tall and weighs 145 pounds. Claimant is a [REDACTED] and is able to read and write. She has basic math skills.
7. Claimant last worked [REDACTED]k. She has also worked in [REDACTED].
8. On [REDACTED], the Medical Review Team approved Claimant for Medical Assistance, State Disability Assistance and retroactive Medical Assistance stating that Claimant met listing 11.14 of the Social Security Administration listings.
9. Claimant alleges as disabling impairments: uncontrolled diabetes mellitus, blood clots in the legs, tachycardia and inability to ambulate without a walker.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Claimants have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In general, Claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only Claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the Claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

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

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). In this case, the Claimant is not engaged in substantial gainful activity and has not worked since approximately **2013**.

Secondly, if the individual has an impairment or combination of impairments which meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 of Chapter 20, disability is found to continue. 20 CFR 416.994(b)(5)(ii).

The objective medical evidence in the record indicates that a medical examination report dated [REDACTED] indicates the Claimant was 67 inches tall and weighed 158 pounds. Her blood pressure was 146/76 and she was right hand dominant, page 17. The clinical impression is that she was stable. She could frequently carry less than 10 pounds and occasionally carry 10 pounds. She could never carry 20 pounds or more. She could sit for eight hours only. She could use her upper extremities for simple grasping, reaching, pushing, pulling and fine manipulating. She could operate neither foot nor leg controls, page 18. A [REDACTED] medical examination report indicates that Claimant has polyneuropathy and diabetes, coronary artery disease, iron deficiency, lumbar radiculopathy, open wound in the leg and ankle, an abscess on the leg, deep vein thrombosis, arthropathy, and Achilles tendon tear as well as a closed fracture of the lateral malleolus and metatarsal bone, page 21.

At Step 2, there is insufficient evidence contained in the record to show that Claimant's impairments do not equal or meet the severity of an impairment listed in Appendix 1. Therefore, this Administrative Law Judge finds that the prior determination by the Medical Review Team on [REDACTED] that Claimant met Social Security Administration listing 11.14 must stand in light of the fact that there is insufficient evidence contained in the record to support that Claimant's condition has changed or improved to the point where she should be able to be gainfully employed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not appropriately established on the record that it was acting in compliance with Department policy when it denied Claimant's continued disability and application for Medical Assistance and State Disability Assistance benefits. There is insufficient evidence to establish that Claimant is no longer disabled.

Accordingly, the Department's decision is REVERSED. The Department is ordered and ORDERED to reinstate Claimant's [REDACTED] review application and if Claimant is otherwise eligible to continue Claimant's Medical Assistance and State Disability Assistance benefits.



Landis Y. Lain
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/6/14

Date Mailed: 10/7/14

NOTICE OF APPEAL: The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the Claimant 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 the hearing decision is mailed.

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

LYL/tb

cc:

