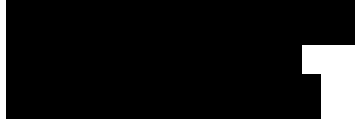


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-008733
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 02, 2014
County: HOUGHTON

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, a telephone hearing was held on October 2, 2014, from Lansing, Michigan. Participants on behalf of the Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor, [REDACTED] and Eligibility Specialist, [REDACTED].

Whether the Department properly determined that the Claimant was no longer disabled and denied his review application 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 SDA benefit recipient and his case was scheduled for review in June 2014.
2. On June 18, 2014, the Medical Review Team denied the Claimant's review application indicating that the Claimant was denied for continuing eligibility.
3. On July 29, 2014, the Department sent the Claimant notice that his SDA case would be closed based upon medical improvement.
4. On August 4, 2014, the Claimant filed a request for a hearing to contest the Department's negative action.

5. The Claimant was receiving SDA at the time of this review.
6. The Claimant was in an [REDACTED]. He alleges his disabling impairments are a traumatic brain injury resulting in memory problems; leg length discrepancy; constant pain in his back, shoulder and right knee; abdominal pain; post livery lacerations; splenectomy and nephrectomy.
7. The Claimant is a [REDACTED]-year-old [REDACTED] whose [REDACTED].
8. The Claimant is 5'9" tall and weighs 160 pounds.
9. The Claimant has a [REDACTED]. The Claimant has difficulty reading and writing and doing basic math.
10. The Claimant was appealing the denial of Social Security benefits at the time of hearing.

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).

Claimant is not disqualified from this step because he has not engaged in substantial gainful activity at any time relevant to this matter. Furthermore, the evidence on the record fails to establish that 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 Claimant's medical condition had improved. Pursuant to the federal regulations, at medical review, the Department has the burden of not only proving 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 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 Claimant was originally determined to be disabled as not being capable of performing other work. The DHS-49-A Medical-Social Eligibility Certification in the record dated [REDACTED] indicates that the Claimant was found disabled under the Vocational Grid Rule 201.00 (h), that the Claimant cannot perform sedentary work and the accompanying notation indicates that this was based on a non-exertional impairment and "(<Sedentary RFCA)".

The only evidence in this case any improvement, is a discharge summary submitted to the Department by [REDACTED], which does not discuss the Claimant's traumatic brain injury. Indeed, [REDACTED] refused to provide the Department with case notes of his sessions with the Claimant because, "Most of those sessions focused on his [REDACTED] and sensitive information was discussed. Those sessions have nothing to do with his disability claim; therefore, I did not think I would need to send them as they are not pertinent to his disability claim." The Claimant testified that [REDACTED] and did therefore promptly discharge the Claimant and has not seen him since.

The record does contain a DHS-49, Medical Examination Report from the Claimant's treating physician. It indicates that the Claimant continues to have mental limitations in the areas of comprehension, memory, sustained concentration, following simple directions, social interaction, reading and writing. The Claimant's treating physician indicates that the Claimant continues to suffer from a closed head injury and that the Claimant sees a neurologist for his memory loss. It indicates that the Claimant has a very flat affect which may be from brain trauma, but the Claimant's treating physician indicates that a personality disorder is also suspected.

In this case, the Department has not met its burden of proof. The Department has provided no persuasive evidence that indicates Claimant's condition has improved, or that the alleged improvement relates to his ability to do basic work activities. The Department provided no objective medical evidence from qualified medical sources that show Claimant is currently capable of doing basic work activities. Accordingly, the Department's SDA 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 the Claimant's 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 June, 2016, (unless he 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: **10/3/2014**

Date Mailed: **10/6/2014**

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:

