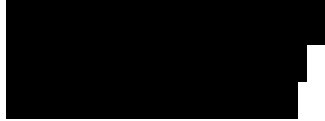


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-012216
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: November 13, 2014
County: Wayne (41)

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, an in-person hearing was held on November 13, 2014 from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

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 8/10/14, the Medical Review Team (MRT) determined that Claimant was not a disabled individual for purposes of SDA eligibility (see Exhibits 5 and 7), in part, by application of Medical-Vocational Rule 202.20.
4. On 8/13/14, DHS terminated Claimant's eligibility for SDA benefits, effective 9/2014, and mailed a Notice of Case Action informing Claimant of the termination.

5. On 9/24/14, Claimant requested a hearing disputing the termination of SDA benefits (see Exhibit 2).
6. Claimant alleged disability based on lumbar pain, temporomandibular joint disorder (TMJ), anxiety, and headaches.

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 presented un rebutted testimony that he was found to be disabled by an administrative law judge following an administrative hearing. 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 three month period of disability is required.

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 MA 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, a DHS review 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.

A Medical Examination Report (Exhibits 9-11) dated 7/9/14 was presented. The form was completed by a physician with an approximate 2 year history of treating Claimant. Claimant's physician listed diagnoses of C5-C6 radiculopathy, L5-S1 radiculopathy, L4-L5 disc herniation, bilateral sciatica, bilateral shoulder lateral tears, s/p vertebral fracture, closed head injury, depression, anxiety, bilateral hip bursitis, and TMJ. Physical examination findings included upper and lower extremity numbness and paresthesia, radiating nerve pain, decreased straight leg-raising, and decreased right grip strength. An impression was given that Claimant's condition was stable. It was noted that Claimant could not meet household needs of shopping, laundry, and medication management. The physician opined that Claimant was restricted as follows over an eight-hour workday: less than 2 hours of standing and/or walking, and less than 6 hours of sitting. Claimant's physician opined that Claimant was restricted from performing the repetitive arm pushing/pulling or reaching. Claimant's physician also restricted Claimant from repetitive operation of leg/foot controls.

Additional treatment documents (Exhibits 12-47) from 2012, 2013, and 2014 were presented. The documents verified regular treatment for back and jaw pain.

For purposes of this decision, it will be found that presented records failed to establish that Claimant meets any SSA listing. Accordingly, 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). To determine medical improvement, DHS must provide records that justified an original finding of disability so that they may be compared to current medical records.

DHS presented documents (Exhibits 61-126) that might have been considered in the original finding of disability. The documents did not include an MRT decision (i.e. a completed Medical-Social Eligibility Certification) other than a blank form (see Exhibits 63-64) and one indicating that it was not apparent that Claimant was an ongoing SDA recipient. Thus, it is doubtful that these records were part of the original finding of disability. Based on this consideration, it is found that DHS failed to provide proper documentation for a consideration of medical improvement.

This finding is consistent with the fact that DHS failed to provide the administrative decision where Claimant was found to be disabled. Without the original documents finding that Claimant was disabled, it cannot be considered from what date that medical improvement should be evaluated.

The above finding is also consistent with a Medical-Social Eligibility Certification (see Exhibits 5 and 7) which suggested that Claimant was an SDA applicant, rather than an ongoing recipient. Thus, it appears that DHS never considered the issue of medical improvement in the MRT decision that led to the termination of Claimant's SDA eligibility. It should be noted that hearing testimony did not dispute Claimant's ongoing SDA recipient status.

Based on the presented evidence, it is found that DHS failed to prove that Claimant's condition improved following the original finding of disability. Accordingly, the analysis skips step three and proceeds to step four.

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 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 a disabled individual. 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 9/2014, 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 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: **11/26/2014**

Date Mailed: **11/26/2014**

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 48909-8139

CC: 

