

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201416196
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: April 2, 2014
County: Oakland County DHS #2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 April 2, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny her 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. On May 5, 2011, the Department found to Claimant to be disabled based on the finding of the Medical Review Team (MRT).
2. The Claimant was an ongoing Medical Assistance (M.A.) and State Disability Assistance (SDA) recipient based on disability.
3. The Department initiated a review of the Claimant's continued eligibility to receive benefits and determine if there has been medical improvement.
4. On November 6, 2013, the Medical Review Team (MRT) determined that the Claimant no longer met the disability standard for Medical Assistance (MA-P) and State Disability Assistance (SDA) because it determined that the Claimant's condition had improved.

5. On November 18, 2013, the Department sent the Claimant notice that it would close her Medical Assistance (MA) and State Disability Assistance (SDA) benefits due to the determination of the Medical Review Team (MRT).
6. On November 26, 2013, the Department received the Claimant's hearing request, protesting the denial of disability benefits.
7. On February 26, 2013, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of MA-P and SDA benefits.
8. The Claimant is a 53-year-old woman whose birth date is [REDACTED].
9. Claimant is 5' 4" tall and weighs 130 pounds.
10. The Claimant is a high school graduate.
11. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
12. The Claimant has no past relevant work experience.
13. The Claimant alleges disability due to colon cancer.

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, Rule 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. Mich Admin Code, R 400.903. Clients 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. Department of Human Services Bridges Administrative Manual (BAM) 600 (July 1, 2013), pp 1-44.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance and State Disability Assistance (SDA) programs. Under SSI, disability is defined as:

...inability to do any substantial gainful activity 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.

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. 20 CRR 416.994.

First, the Claimant's impairments are evaluated to determine whether they fit the description of a Social Security Administration disability listing in 20 CFR Part 404, Subpart P, Appendix 1. A Claimant that meets one of these listing that meets the duration requirements is considered to be disabled.

The Claimant's impairment failed to meet the listing for colon cancer under section 13.18 Large intestine (from ileocecal valve to and including anal canal) because the objective medical evidence does not demonstrate adenocarcinoma that is inoperable, unresectable, or recurrent; or squamous cell carcinoma of the anus, recurrent after surgery; or metastases beyond the regional lymph nodes. A treating physician found no evidence of recurrence following multimodal therapy.

The medical evidence of the Claimant's condition does not give rise to a finding that she would meet a statutory listing in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1.

Second, the Claimant's impairments are evaluated to determine whether there has been medical improvement as shown by a decrease in medical severity. Medical improvement is defined as any decrease in the medical severity of the impairment(s), which was present at the time of the most recent favorable medical decision that the Claimant was disabled or continues 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 Claimant's impairment(s).

On May 2, 2011, the Medical Review Team (MRT) determined that the Claimant was disabled because she met or equaled a listing under section 13.18 Large intestine (from ileocecal valve to and including anal canal). On November 18, 2013, the Medical Review Team (MRT) determined that the Claimant no longer met or equaled a listed impairment. A treating physician found no evidence of recurrence following multimodal therapy. The objective medical evidence on the record supports a finding that the Claimant no longer meets or equals a listing under section 13.18 Large intestine (from ileocecal valve to and including anal canal). This Administrative Law Judge finds that there has been medical improvement as shown by a decrease in medical severity.

Third, the Claimant's medical improvement is evaluated to determine whether it is related to her ability to do work.

The Claimant testified that she suffers from pain that she described as a 6 on a 10 point scale, which can only be partially relieved by taking pain medication twice daily. This Administrative Law Judge finds that the pain described by the Claimant could be reasonably expected based on the Claimant's medical diagnosis, and that this pain could be reasonably expected to have more than a de minimus effect on the Claimant's ability to perform work activities.

This Administrative Law Judge finds that the Claimant's improvement is related to her ability to perform work.

Fourth, the Claimant's impairments are evaluated to determine whether current impairments result in a severely restrictive physical or mental impairment.

The Claimant is a 53-year-old woman that is 5' 4" tall and weighs 130 pounds.

A treating physician diagnosed the Claimant with constipation and anal fissure. A treating physician diagnosed the Claimant with a stabled small left based pulmonary nodule, but found no evidence of metastatic disease in her chest, abdomen, or pelvis. Multiple computed axial tomogram scans revealed no adenopathy or masses in the chest, abdomen, or pelvis. A computed tomogram scan revealed no suspicious pulmonary masses, no enlarged mediastinal, hilum, retroperitoneal, or pelvis lymph nodes.

A treating physician diagnosed the Claimant with rectal cancer post multimodality therapy without evidence of recurrence.

The Claimant is a licensed driver and is capable of driving an automobile. The Claimant is capable of preparing meals, shopping for groceries, washing dishes, washing laundry, vacuuming floors, and dusting. The Claimant is capable of showering and dressing herself without assistance.

The Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to the Claimant's ability to perform work. This Administrative Law Judge finds that the objective medical evidence on the record does not support a finding of a severe physical impairment that meets the severity and duration standard for MA-P and SDA purposes.

Fifth, the Claimant's impairments are evaluated to determine whether you can still do work you have done in the past. The Claimant has no past relevant work experience and she cannot be disqualified from receiving disability at this step.

Sixth, the Department has the burden to establish that the Claimant has the Residual Functional Capacity (RFC) for Substantial Gainful Activity.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

The objective medical evidence indicates that the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior employment and that she is physically able to do light or sedentary work if demanded of her. The Claimant's activities of daily living do not appear to be very limited and she should be able to perform light or sedentary work even with her impairments for a period of 12 months. The Claimant's testimony as to her limitations indicates that she should be able to perform light or sedentary work.

Claimant is 53-years-old, a person closely approaching advanced age, 50-54, with a high school education, and no relevant work history. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform light work, and Medical Assistance (MA) and State Disability Assistance (SDA) is denied using Vocational Rule 20 CFR 202.13 as a guide.

The Department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM 261. Because the Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that the Claimant is unable to work for a period exceeding 90 days, the Claimant does not meet the disability criteria for State Disability Assistance benefits either.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that the Claimant was not eligible to receive Medical Assistance and State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has 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. The Claimant should be able to perform light work. The Department has established its case by a preponderance of the evidence. The Claimant does have medical improvement based upon the objective medical findings in the file.

Accordingly, the Department's decision is **AFFIRMED**.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 23, 2014

Date Mailed: April 23, 2014

NOTICE: Administrative Hearings 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. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

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 was made, within 30 days of the receipt date of the rehearing decision.

KS/hj

cc:

