

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-32849
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: August 13, 2014
County: Berrien

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 August 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny her review application for 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 ongoing State Disability Assistance (SDA) recipient based on disability.
2. On December 31, 2013, the Department initiated a review of the Claimant's continued eligibility to receive benefits and determine if there has been medical improvement.
3. On February 27, 2014, the Medical Review Team (MRT) determined that the Claimant no longer met the disability standard for State Disability Assistance (SDA) because it determined that the Claimant's condition had improved.
4. On March 5, 2014, the Department sent the Claimant notice that it would close her State Disability Assistance (SDA) benefits due to the determination of the Medical Review Team (MRT).

5. On March 13, 2014, the Department received the Claimant's hearing request, protesting the denial of disability benefits.
6. On May 23, 2014, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of State Disability Assistance (SDA) benefits.
7. The Claimant is a 36-year-old woman whose birth date is [REDACTED]
8. Claimant is 5' 6" tall and weighs 130 pounds.
9. The Claimant attended college and is a certified as a nursing assistant.
10. The Claimant is able to read and write and does have basic math skills.
11. The Claimant testified that she is working 25 hours per week at a rate of \$ [REDACTED] per hour.
12. The Claimant's current employment requires her to sweep floors, mop floors, vacuum floors, dust, clean bathrooms, and take out the trash.
13. The Claimant has past relevant work experience working in fast food restaurants.
14. The Claimant alleges disability due to carpal tunnel syndrome, chondromalacia, equinus deformity of the left foot, a hip injury, dermoid cyst, ovarian mass, headaches, bipolar disorder, and depression.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 et seq. and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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 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 carpal tunnel syndrome, chondromalacia, equinus deformity of the left foot, or a hip injury under section 1.02 Major dysfunction of a joint because the objective medical evidence does not demonstrate that the Claimant's impairment involves a weight bearing joint resulting in inability to ambulate effectively, or impairment in each upper extremity resulting in inability to perform fine and gross movements effectively. Inability to perform fine and gross movements effectively includes the inability to prepare a simple meal and feed oneself, the inability to take care of personal hygiene, the inability to sort and handle papers or files, and the inability to place files in a file cabinet at or above waist level.

The Claimant's impairment failed to meet or equal any listing for her dermoid cyst or ovarian mass.

The Claimant's impairment failed to meet the listing for depression or bipolar disorder under section 12.04 Affective disorders, because the objective medical evidence does not demonstrate that the Claimant suffers from marked restrictions of activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation or is unable to function outside a highly supportive living arrangement.

The Claimant's impairment failed to meet the listing for anxiety under section 12.06 Anxiety-related disorders, because the objective medical evidence does not demonstrate that the Claimant suffers from marked restrictions of activities of daily living or social functioning. The objective medical evidence does not demonstrate that the Claimant suffers from repeated episodes of decompensation. The objective medical evidence does not demonstrate that the Claimant is completely unable to function outside the home.

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).

A psychologist assessed the Claimant for the period from January 2012, through July 2013, and diagnosed the Claimant with pain disorder, bipolar disorder, anxiety, dyssomnia, and personality disorder. The psychologist found the Claimant to have major impairments in social and occupational functioning and is unable to work. The psychologist found the Claimant's social and occupational abilities to be markedly limited.

On [REDACTED], a consultative psychologist found that the Claimant's social and occupational abilities were no longer markedly impaired, but are exacerbated by her physical health.

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 suffers from chronic pain that is exacerbated by depression and anxiety. The pain the Claimant described can reasonably be expected to arise from the conditions the Claimant has been diagnosed with and the medical procedures the Claimant has undergone. 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. The Claimant's depression and anxiety are related to her social and occupational abilities, which affect her capability of performing work.

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 36-year-old woman that is 5' 6" tall and weighs 130 pounds.

On [REDACTED], a consultative psychologist diagnosed the Claimant with an unspecified anxiety disorder, an unspecified depressive disorder, and determined that her social and occupational functioning were not markedly impaired. The consultative psychologist found the Claimant to be oriented to person, place, and time. The consultative psychologist determined that the Claimant's anxiety and depression are exacerbated by her physical health.

On [REDACTED], the Claimant underwent left gastrocnemius recession for left equinus deformity and chronic metatarsalgia.

On [REDACTED], the Claimant was treated in an emergency room for injuries to her left ankle, left hip, and left knee.

On [REDACTED], the Claimant was diagnosed by a treating physician with a dermoid cyst.

The Claimant is capable of preparing meals. The Claimant is capable of caring for her personal needs such as showering and dressing without assistance.

Although the Claimant suffers from chronic pain that can reasonably be expected arise from the Claimant's condition, the evidence on the record as a whole supports a finding that the Claimant is experiencing improvement and will continue to improve in the future. 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. On [REDACTED], a consultative psychologist determined that the Claimant's social and occupational function is not markedly impaired, and that she is fully oriented. The Claimant's mental impairments are exacerbated by her physical pain and therefore these impairments are also likely to continue to improve as well.

The objective medical evidence of record is not sufficient to establish that Claimant has severe impairments that have lasted or are expected to last 12 months or more and prevent employment at any job for 12 months or more. Therefore, Claimant is found not to be disabled at this step. In order to conduct a thorough evaluation of Claimant's disability assertion, the analysis will continue.

Fifth, the Claimant's impairments are evaluated to determine whether you can still do work you have done in the past.

After careful consideration of the entire record, this Administrative Law Judge finds that the Claimant has the residual functional capacity to perform light work as defined in 20 CFR 404.1567 and 416.967.

The Claimant testified that she is currently working 25 hours per week at a rate of \$ [REDACTED] per hour. The Claimant is required to sweep floors, mop floors, vacuum floors, dust, clean bathrooms, and take out the trash. The Claimant's employment fits the definition of light work.

There is no evidence upon which this Administrative Law Judge could base a finding that the Claimant is unable to perform work in which she has engaged in, in the past.

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.

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 work.

To determine the skills required in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. These terms have the same meaning as defined in. 20 CFR 416.968.

Unskilled work. Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs. 20 CFR 416.968(a).

The Claimant continues to experience anxiety and depression. Despite these conditions and considering the Claimant's education, the evidence supports a finding that the Claimant can perform unskilled work of a simple and repetitive nature.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

Claimant is 36-years-old, a younger person, under age 50, with a high school education and above, and a history of unskilled work. Based on the objective medical evidence of record Claimant has the residual functional capacity to perform light work. State Disability Assistance (SDA) is denied using Vocational Rule 202.20 as a guideline.

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 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.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant not disabled for purposes of the State Disability Assistance.

DECISION AND ORDER

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



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

Date Signed: September 3, 2014

Date Mailed: September 3, 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 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

KS/las

cc:

