

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20147957
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: March 4, 2014
County: Wayne County DHS #57

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 March 4, 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].

ISSUE

Did the Department of Human Services (Department) properly determine that the Claimant was no longer disabled and deny his 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. The Claimant was an ongoing Medical Assistance (M.A.) and State Disability Assistance (SDA) recipient based on disability.
2. On July 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 September 18, 2013, the Medical Review Team (MRT) determined that the Claimant is capable of performing other work despite his non-exertional impairments.
4. On October 5, 2014, the Department sent the Claimant notice that it would close his Medical Assistance (MA) and State Disability Assistance (SDA) benefits due to the determination of the Medical Review Team (MRT).
5. On October 8, 2014, the Department received the Claimant's hearing request, protesting the denial of disability benefits.

6. On December 3, 2013, the State Hearing Review Team (SHRT) upheld the Medical Review Team's (MRT) denial of MA-P and SDA benefits.
7. The Claimant is a 43-year-old man whose birth date is [REDACTED]. Claimant is 5' 6½" tall and weighs 175 pounds. The Claimant attended school through the 11th grade. The Claimant is able to read and write and does have basic math skills.
8. The Claimant was not engaged in substantial gainful activity at any time relevant to this matter.
9. The Claimant has past relevant work experience performing general labor where he was required to lift objects weighing 10 pounds.
10. The Claimant alleges disability due to depression and anxiety.

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 his 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.

On July 23, 2013, a consultative physician determined that the Claimant has no physical limitations.

On August 5, 2013, a social worker determined that the Claimant has marked limitations of all aspects of his understanding, memory, concentration, social interaction, and adaptation. The social worker found that the Claimant's impairments limit his ability to perform his daily functioning. The social worker determined that the Claimant has moderate symptoms and has moderate difficulty in social and occupational functioning. A social worker determined that the Claimant suffers from depression that results in a loss of interest in all activities, sleep disturbance, decreased energy, and thoughts of hopelessness.

Based on the limited evidence available during the hearing, this Administrative Law Judge finds that the Claimant's impairments meet a listing for depression under section 12.04 Affective disorders in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1. The Claimant is not disqualified from receiving disability benefits at this point and the analysis will continue.

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).

The evidence on the record indicates that the Claimant was an active recipient of Medical Assistance (M.A.) and State Disability Assistance (SDA), and that a review of his eligibility was initiated on July 31, 2013. The Claimant has no physical impairments. The Claimant has been diagnosed with depression that has resulted in marked limitations of his social functioning, concentration, and ability to perform activities of daily living. Based on the evidence and testimony available during the hearing, the Department has failed to establish that there has been medical improvement as shown by a decrease in medical severity.

Therefore, the Department has failed to establish that it properly closed the Claimant's Medical Assistance (M.A.) and State Disability Assistance (SDA) benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish on the record that the Claimant's condition has improved and 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 Department has failed to establish its case by a preponderance of the evidence.

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

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a review of the Claimant's eligibility for Medical Assistance (M.A.) and State Disability Assistance (SDA) benefits as of October 1, 2013.
2. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.
3. A medical review should be scheduled for October 1, 2014.



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

Date Signed: March 24, 2014

Date Mailed: March 24, 2014

20147957/KS

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:

