

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20148231
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]. Participants on behalf of the Department of Human Services (Department) included [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. The Claimant was an ongoing Medical Assistance (M.A.) and State Disability Assistance (SDA) recipient based on disability.
2. On May 1, 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 October 15, 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.

4. On October 23, 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).
5. On October 25, 2013, the Department received the Claimant's hearing request, protesting the denial of disability benefits.
6. On January 7, 2014, 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 46-year-old woman whose birth date is [REDACTED]. Claimant is 5' 7" tall and weighs 178 pounds. The Claimant is a high school graduate and attended college. 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 as a custodian where she was required to clean and make repairs.
10. The Claimant alleges disability due to back pain, diabetes, depression, skin cancer, and rheumatoid arthritis.

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, MAC R 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. MAC 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. BAM 600.

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 (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 Program Reference Manual (PRM).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (Department) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 pack pain under section 1.04 Disorders of the spine, because the objective medical evidence does not demonstrate that the Claimant suffers from nerve root compression resulting in loss of motor strength or reflexes, or resulting in a positive straight leg test. The objective medical evidence does not demonstrate that the Claimant has been diagnosed with spinal arachnoiditis. The objective medical evidence does not support a finding that the Claimant's impairment has resulted in an inability to ambulate effectively.

The Claimant's impairment failed to meet the listing for diabetes under section 9.00 Endocrine because the Claimant's impairments do not meet or medically equal a listing in another body system secondary to her diabetes. The Claimant's impairments due to diabetes will be examined further when evaluating her vocational abilities.

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

The Claimant's impairment failed to meet the listing for skin cancer under section 13.03 Skin because the objective medical evidence does not support a finding that the Claimant has been diagnosed with sarcoma or carcinoma with metastases to or beyond the regional lymph nodes. The objective medical evidence does not support a finding that the Claimant has been diagnosed with melanoma that is recurrent after wide excision, or metastases to one or more clinically apparent nodes, to four or more clinically different nodes, or to adjacent skin or distant sites.

The Claimant's impairment failed to meet the listing for arthritis under section 14.09 Inflammatory Arthritis, because the objective medical evidence does not demonstrate an impairment involving a weight-bearing joint and resulting in an inability to ambulate effectively. The objective evidence does not support a finding that the Claimant lacks the ability to perform fine and gross movements with each upper extremity.

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).

The Claimant has been diagnosed with diabetes, bronchitis, skin cancer, rheumatoid arthritis, and hyperlipidemia. The Claimant has been found to have a normal range of motion. The Claimant has been found to be capable of unassisted-effective ambulation. The Claimant is capable of lifting 10 pounds occasionally. The Claimant is capable of standing 2 hours in an 8 hour work-day. The Claimant is capable of grasping, reaching, and fine manipulation with both hands. The Claimant is capable of operating foot controls with both feet.

The Medical Review Team (MRT) indicated on a Medical-Social Eligibility Certification (DHS-49-A) that a decision is deferred as well as a decision that the Claimant is not disabled based on a medical review of continuing eligibility for Medical Assistance (M.A.) Disabled. The State Hearing Review Team (SHRT) issued findings on January 7, 2014, indicating that there is no prior medical file to compare current residual function to and therefore are taken on their own merits.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that 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.

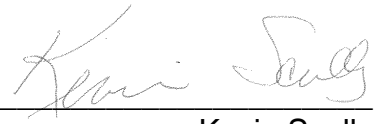
DECISION AND ORDER

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 November 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 November 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

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:

