

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

IN THE MATTER OF:



Reg. No.: 14-016481
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: January 14, 2015
County: Gogebic County, DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 January 14, 2015, from Lansing, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included, [REDACTED], Eligibility Specialist, as Hearings Facilitator.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P)?

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 September 29, 2014, claimant filed an application for Medical Assistance and State Disability benefits alleging disability.
- (2) On October 22, 2014, the Medical Review Team denied claimant's application.
- (3) On October 24, 2014, the department caseworker sent claimant notice that his application was denied.
- (4) On November 5, 2014, claimant filed a request for a hearing to contest the department's negative action.

- (5) On January 14, 2015, the hearing was held. At the hearing, claimant's authorized hearings representative waived the time periods and requested to submit additional medical information.
- (6) On February 5, 2015, additional medical information was submitted which was considered in making this determination.
- (7) Claimant is a 49-year-old man whose date of birth is [REDACTED]. Claimant is 5'3" tall and weighs 200 pounds. Claimant is a high school graduate. Claimant is able to read and write, add, subtract and count money.
- (8) Claimant last worked in 2004 as a dishwasher. Claimant has also worked as a carpenter, in a lumber mill, as a press operator and a heavy equipment mechanic.
- (9) Claimant alleges as disabling impairments: arthritis, back and neck pain, hip pain, right shoulder pain, carpal tunnel syndrome, depression and concentration problems.

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 his or her claim for assistance has been denied. MAC R 400.903(1). 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 (DHS or 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 (DHS or 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).

In general, claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). In this case, the claimant is not engaged in substantial gainful activity and has not worked since approximately **2004**.

Secondly, if the individual has an impairment or combination of impairments which meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 of Chapter 20, disability is found to continue. 20 CFR 416.994(b)(5)(ii).

The subjective and objective medical evidence on the record indicates that claimant testified on the record that he is single and lives with his children's mother. He has no children under 18 who live with him and he has no income. He received Food Assistance Program benefits and the Healthy Michigan Medical Plan. Claimant cooks 1-2 times per week. Claimant does laundry and cuts grass with a push mower. He watches television 2-3 hours per day. Claimant can stand and sit for 1-3 hours at a time. He can walk one block. He can shower and dress himself. He is able to tie his shoes if he is sitting down. His knees are fine. He can carry a gallon of milk. Claimant smokes a pack of cigarettes per day. His doctor has told him to stop smoking. He is not in a smoking cessation program.

A January 13, 2015, Psychiatric report indicates that Claimant has no evidence of suicidal or homicidal thought reported. Level of functioning Axis V GAF is 60, Exhibit C page 4. Claimant was diagnosed with depression, Exhibit C page 8. A Social Security Disability Evaluation dated April 16, 2009 indicates that claimant was diagnosed with

Alcohol abuse, mood disorder secondary to alcohol abuse with depressive features and adjustment disorder with mixed anxiety. His axis V GAF was 50-60, Exhibit E pages 3-4. On June 13, 2014, Claimant was diagnosed with chronic neck, back pain with intermittent chest discomfort, anxiety and depression but the doctor could not state that claimant is disabled due to incomplete functional capacity evaluation and variation of his symptoms, Exhibit A page 11.

A medical Examination Report dated [REDACTED] indicates that claimant was 64" tall and weighed 184 lbs. His blood pressure was 122/64 and he was right hand dominant, Exhibit B page 31. The clinical impression was that he was stable, Exhibit B page 32.

A nuclear cardiac scan On [REDACTED], indicates that claimant has an ejection fraction of 58% in the left ventricular with a normal left ventricular wall motion. No evidence of ischemia, Exhibit B, page 71.

At Step 2, claimant's impairments do not equal or meet the severity of an impairment listed in Appendix 1.

In the third step of the sequential evaluation, the trier of fact must determine whether there has been medical improvement as defined in 20 CFR 416.994(b)(1)(i). 20 CFR 416.994 (b)(5)(iii). 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). If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 4 (which examines whether the medical improvement is related to the claimant's ability to do work). If there has been no decrease in medical severity and thus no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

In the instant case, this Administrative Law Judge finds that claimant does have medical improvement and his medical improvement is related to the claimant's ability to perform substantial gainful activity.

Thus, this Administrative Law Judge finds that claimant's. If there is a finding of medical improvement related to claimant's ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth step of the sequential evaluation, the trier of fact is to determine whether the claimant's current impairment(s) is severe per 20 CFR 416.921. 20 CFR 416.994(b)(5)(vi). If the residual functional capacity assessment reveals significant limitations upon a claimant's ability to engage in basic work activities, the trier of fact moves to Step 7 in the sequential evaluation process. In this case, this Administrative

Law Judge finds claimant can perform at least sedentary work even with the impairments.

In the seventh step of the sequential evaluation, the trier of fact is to assess a claimant's current ability to engage in substantial gainful activities in accordance with 20 CFR 416.960 through 416.969. 20 CFR 416.994(b)(5)(vii). The trier of fact is to assess the claimant's current residual functional capacity based on all current impairments and consider whether the claimant can still do work he/she has done in the past. In this case, this Administrative Law Judge finds that claimant could probably perform past work as a dishwasher.

In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). Using vocational profile of **dictate a younger individual, with a high school education and unskilled/semi-skilled work history**, MA-P is denied using Vocational Rule **202.21** as a guide. Claimant can perform other work in the form of light work per 20 CFR 416.967(b). This Administrative Law Judge finds that claimant does have medical improvement in this case and 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 proposed to cancel claimant's Medical Assistance and State Disability Assistance benefits based upon medical improvement.

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. PEM, Item 261, page 1. 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 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.

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 application for Medical Assistance and retroactive Medical Assistance benefits. The claimant should be able to perform a wide range of work even with his impairments, especially as he refrains from drug use. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is AFFIRMED based upon the substantive information contained in the file.



Landis Y. Lain
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: 02/17/2015

Date Mailed: 02/18/2015

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

LYL/sw

cc:

