

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

IN THE MATTER OF:



Reg. No.: 14-016865
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: January 27, 2015
County: Grand Traverse

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 27, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Supervisor [REDACTED].

ISSUE

Did the Department of Human Services (the Department) properly determine that Claimant was no longer disabled and deny his review application for State Disability Assistance (SDA) based upon medical improvement?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

- (1) Claimant was a State Disability Assistance (SDA) benefit recipient and his SDA case was scheduled for review in October, 2014.
- (2) On October 1, 2014, Claimant filed a Redetermination for SDA benefits alleging continued disability.
- (3) On November 7, 2014, the Medical Review Team denied Claimant's redetermination for continuing eligibility.
- (4) On November 7, 2014, the Department sent Claimant notice that his SDA case would be closed as of December 1, 2014, based upon medical improvement.
- (5) On November 20, 2014, Claimant filed a request for a hearing to contest the Department's negative action.

- (6) Claimant alleges his disabling impairments are psychotic disorder, posttraumatic stress disorder and an adjustment disorder.
- (7) Claimant is a 52-year-old man whose birth date is [REDACTED]. Claimant is 5'8" tall and weighs 180 pounds. Claimant has a high school equivalent education. He is able to read and write and has basic math skills.
- (8) Claimant testified he has not worked since his release from prison in 2010.

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 the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for such benefits must be reviewed periodically. Before determining that a client is no longer eligible for disability benefits, the agency must establish that there has been a medical improvement of the client's impairment that is related to the client's ability to work. 20 CFR 416.994(b)(5).

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. Our review may cease and benefits may be continued at any point if we determine there is sufficient evidence to find that you are still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first questions asks:

- (i) Are you engaging in substantial gainful activity? If you are (and any applicable trial work period has been completed), we will find disability to have ended (see paragraph (b)(3)(v) of this section).

Claimant is not disqualified from this step because he has not engaged in substantial gainful activity at any time relevant to this matter. Furthermore, the evidence on the record fails to establish that Claimant has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues. 20 CF 416.994(b)(5)(ii).

The next step asks the question if there has been medical improvement.

Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued 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 your impairment(s). 20 CFR 416.994(b)(1)(i).

If there is a decrease in medical severity as shown by the symptoms, signs and laboratory findings, we then must determine if it is related to your ability to do work. In paragraph (b)(1)(iv) of this section, we explain the relationship between medical severity and limitation on functional capacity to do basic work activities (or residual functional capacity) and how changes in medical severity can affect your residual functional capacity. In determining whether medical improvement that has occurred is related to your ability to do work, we will assess your residual functional capacity (in accordance with paragraph (b)(1)(iv) of this section) based on the current severity of the impairment(s) which was present at your last favorable medical decision. 20 CFR 416.994(b)(2)(ii).

On [REDACTED], Claimant underwent a psychiatric evaluation at [REDACTED] [REDACTED] at his request. Claimant Assessment: Axis I: Posttraumatic stress disorder, chronic, provisional; Adjustment disorder with depression and anxiety, chronic; Cannabis Abuse; Rule out alcohol abuse; rule out major depression and/or dysthymic disorder; Axis II: Deferred; Axis III: None; Axis IV: Registered sex offender, unemployment, social isolation, financial difficulties, childhood victim of sexual and physical abuse. Records reflect he is applying for disability. Axis V: GAF=50. The psychiatrist indicated Claimant presents with obvious challenges of being a sex offender and has had ongoing challenges of being accepted in society. As a consequence, he is socially isolated. His complaints of auditory and visual hallucinations and paranoia are most likely not representative of psychotic symptoms in the context of severe mental illness, though such symptoms can be best understood in the context of complicated PTSD. Supporting this opinion are his descriptions of hallucinations, which are rather atypical and not usually experienced in those with schizophrenia-spectrum illness; also his symptoms become improved with use of cannabis. There has been no recent suicidal ideation, though he has had chronic depression. His use of propranolol appears to be not beneficial for anxiety and he is felt not to be a candidate for use of

benzodiazepines in the opinion of the psychiatrist, given his history of ongoing alcohol use and illicit use of benzodiazepines. He has not been engaged in psychotherapy to help him with his life challenges and PTSD and he is interested in treatment alternatives to quetiapine IR for insomnia. The psychiatrist indicated his daily use of cannabis and alcohol and reported use of illicit benzodiazepines are noted and concerning.

Pursuant to the federal regulations, at medical review, the agency has the burden of not only proving Claimant's medical condition has improved, but that the improvement relates to the client's ability to do basic work activities. The agency has the burden of establishing that Claimant is currently capable of doing basic work activities based on objective medical evidence from qualified medical sources. 20 CFR 416.994(b)(5).

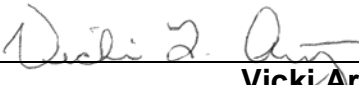
In this case, the agency has met its burden of proof. The agency has provided evidence that indicates Claimant's condition has improved, or that the alleged improvement relates to his ability to do basic work activities. Medical records indicate Claimant has not been compliant with his medications and used cocaine again in October, 2013. In addition, Claimant's reports of his audio and visual hallucinations are not consistent between his primary care physician, therapist and psychiatrist. Therefore, the objective medical evidence from qualified medical sources does show that Claimant is currently capable of doing basic work activities. Accordingly, the agency's SDA eligibility determination is upheld at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed Claimant's SDA case based upon a finding of improvement at review.

Accordingly, the Department's action is **UPHELD**.

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/10/2015**

Date Mailed: **3/10/2015**

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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 48909-8139

cc:

