

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003116
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: April 15, 2015
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on April 15, 2015 from Taylor, Michigan. Participants included the above-named Claimant. [REDACTED], Claimant's guardian and mother, testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], medical contact worker.

ISSUE

The issue is whether DHHS properly terminated Claimant's State Disability Assistance (SDA) eligibility for the reason that Claimant is not a disabled individual.

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 an ongoing SDA recipient.
2. Claimant's only basis for SDA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was no longer a disabled individual (see Exhibits 2-3).
4. On [REDACTED], DHHS terminated Claimant's SDA eligibility, effective March 2015, and mailed a Notice of Case Action (Exhibits 117-118) informing Claimant of the termination.

5. On [REDACTED], Claimant requested a hearing disputing the termination of SDA benefits.
6. Claimant alleged disability based on restrictions related to bipolar disorder.

CONCLUSIONS OF LAW

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

Claimant requested a hearing concerning SDA eligibility. It was not disputed that Claimant's only basis for SDA eligibility was based on disability.

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (January 2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2014), p. 1. A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
Id.

Generally, state agencies such as DHHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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. The definition of SDA disability is identical except that only a 90 day period is required to establish disability.

Substantial gainful activity means a person does the following: performs significant duties, does them for a reasonable length of time, and does a job normally done for pay or profit. BEM 260 (July 2014), p. 10. Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The disability analysis differs between individuals applying for disability-based benefits and those who are terminated from receiving disability benefits. It was not disputed that Claimant was an ongoing SDA recipient previously certified by DHHS as disabled.

Once an individual has been found disabled for purposes of disability benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994. In the present case, the Medical Review Team determined that Claimant had medical improvement and was no longer disabled.

In evaluating a claim for ongoing disability benefits, federal regulations require a sequential evaluation process be utilized. 20 CFR 416.994(b)(5). The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. *Id.* Prior to deciding if an individual's disability has ended, the department will develop, along with the Claimant's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

The below described evaluation process is applicable for clients that have not worked during a period of disability benefit eligibility. No evidence was presented suggesting that Claimant received any wages since receiving disability benefits.

The first step in the analysis in determining the status of a claimant's disability requires the trier of fact to consider the severity of the impairment(s) and whether it meets or equals a listed impairment in Appendix 1 of subpart P of part 404 of Chapter 20. 20 CFR 416.994(b)(5)(i). If a listing is met, an individual's disability is found to continue and no further analysis is required. This consideration requires a summary and analysis of recent (2014 and later) medical documents.

A consultative mental status examination report (Exhibits 4-13) dated [REDACTED] was presented. The report was signed by a licensed psychologist and limited licensed psychologist. A history of 5 psychiatric hospitalizations was noted as reported by Claimant. Noted examples of past psychoses including believing the following: her grandmother was a messenger of God, her boyfriend killed her grandmother, her stepfather operated a dog fighting ring in her basement, and that she solved a very complicated algebraic equation. It was noted that Claimant reported no acute psychotic episodes since 2012, though she struggles with delusional thinking, manic behaviors, ideas of grandiosity, and mild paranoia. Claimant expressed concerns about working based on symptoms of anxiety, rejection, and poor concentration. Ongoing problems included occasional manic behavior, slightly delusional, and unrealistic goals. Observations of Claimant included the following: in-touch with reality, mildly constricted

affect, pleasant and serious mood, and slow stream of mental activity. It was noted that initial symptoms may have been substance induced. It was noted that Claimant displayed no cognitive difficulties preventing following 2-3 step directions in a controlled work environment. A diagnosis of recurrent bipolar disorder with manic episodes was noted. A guarded prognosis was noted. It was noted that Claimant may need assistance in managing funds.

Claimant was diagnosed with bipolar disorder. Bipolar disorder is an affective disorder typically evaluated under Listing 12.04. Claimant's medical history and symptoms are more on point with the listing for psychotic disorders.

12.03 Schizophrenic, paranoid and other psychotic disorders:

Characterized by the onset of psychotic features with deterioration from a previous level of functioning.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one or more of the following:

1. Delusions or hallucinations; or
2. Catatonic or other grossly disorganized behavior; or
3. Incoherence, loosening of associations, illogical thinking, or poverty of content of speech if associated with one of the following:
 - a. Blunt affect; or
 - b. Flat affect; or
 - c. Inappropriate affect; OR
4. Emotional withdrawal and/or isolation;

AND

B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or
3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration;

OR

C. Medically documented history of a chronic schizophrenic, paranoid, or other psychotic disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change

in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Claimant reported to a consultative examiner that she has an ability to cook, an ability to drive, and occasional dating; an ability to perform these tasks is indicative of non-marked restrictions. There was no evidence of decompensation (i.e. hospitalizations) after 2013. The evidence suggested that Claimant is functioning with some independence, as long as she is medically compliant. These considerations were supportive in finding that Claimant does not meet the above listing. Other considerations were less supportive.

A Mental Residual Functional Capacity Assessment (Exhibits 25-26) dated [REDACTED] was presented. The assessment was noted as completed by a treating psychiatrist. The psychiatrist noted an approximate 5 month history of treating Claimant (see Exhibit 29). This form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. A therapist or physician rates the patient's ability to perform each of the 20 abilities as either "not significantly limited", "moderately limited", "markedly limited" or "no evidence of limitation". Claimant was found moderately restricted in nine of the form's listed abilities. Claimant was found to be markedly restricted in all other listed abilities, which included the following:

- Remembering locations and other work-like procedures
- Understanding and remembering detailed instructions
- Carrying out detailed instructions
- Maintaining concentration for extended periods
- Performing activities within a schedule and maintaining attendance and punctuality
- Sustaining an ordinary routine without supervision
- Completing a normal workday without psychological symptom interruption
- Accepting instructions and responding appropriately to criticism
- Being aware of normal hazards and taking appropriate precautions
- Traveling to unfamiliar places including use of public transportation
- Setting realistic goals or making plans independently of others.

The above restrictions were highly consistent with meeting psychotic disorder listing requirements. Conclusions from a consultative examiner were also consistent with meeting the above-listed listing.

The consultative examiner noted a guarded prognosis. A guarded prognosis is understood to be one where a patient's ability to increase function is in doubt. It is not one that guarantees failure, but there is much to overcome. Given Claimant's history of psychiatric hospitalizations, such a conclusion is highly reasonable.

The consultative examiner stated that Claimant was capable of employment with a "controlled" work environment. The examiner did not specify how controlled the work environment must be for Claimant to competently function, however, the restrictions suggests some type of accommodation.

The consultative examiner also stated that Claimant could easily decompensate. It is understood that the statement is not a guarantee of decompensation, however, the statement implies that added stress could cause Claimant to relapse. An obligation of employment amounting to SGA income limits is such a stress that could reasonably be expected to cause Claimant to relapse.

Based on the statements of Claimant's psychiatrist and a consultative examiner, it is found that Claimant meets the requirements for 12.03 (c)(2) Accordingly, Claimant is a disabled individual and it is found that DHS improperly terminated Claimant's SDA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHHS improperly denied Claimant's application for SDA benefits. It is ordered that DHHS:

- (1) reinstate Claimant's SDA benefit eligibility, effective March 2015;
- (2) evaluate Claimant's ongoing SDA eligibility subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in no less than one year from the date of this administrative decision, if Claimant is found eligible for ongoing benefits.

The actions taken by DHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

CG / hw

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:

