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

**IN THE MATTER OF:**

[redacted]

Reg. No.: 15-008768
Issue No.: 2009; 4009
Case No.: [redacted]
Hearing Date: August 05, 2015
County: Jackson

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

## HEARING DECISION

Following the 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 August 5, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant [redacted] and her case manager from Lifeways Community Mental Health, [redacted]. Participants on behalf of the Department of Health and Human Services (Department) included General Services Program Manager, [redacted] and Eligibility Specialist, [redacted].

## ISSUE

Whether the Department properly determined that the Claimant was no longer disabled and denied her review application for Medical Assistance (MA) 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 MA and SDA benefit recipient and her Medical Assistance case was scheduled for review in April, 2015.

(2) On May 21, 2015, the Medical Review Team denied the Claimant's application indicating that the Claimant was denied because she was capable of doing other work as her impairment was non-exertional.

(3) On May 26, 2015, the Department sent the Claimant notice that her MA and SDA cases would be closed.

(4) On June 8, 2015, the Claimant filed a request for a hearing to contest the Department's negative action.

(5) The Claimant was receiving MA and SDA at the time of this review.

(6) The Claimant alleges her disabling impairments are schizophrenia, bipolar disorder, depression and recent surgery on her right foot that requires a walking boot.

(7) The Claimant is a 48-year-old woman whose birth date is [redacted].

(8) The Claimant is 5'9" tall and weighs 188 pounds.

(9) The Claimant completed school through the 11th grade. She is able to read and write and does have basic math skills.

(10) The Claimant last worked in October 2014.

## CONCLUSIONS OF LAW

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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 Reference Tables Manual (RFT).

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).

The 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).

The Medical Review Team found Claimant's medical condition had improved.

Pursuant to the federal regulations, at medical review, the Department 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 Department 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 Claimant's case manager testified that the Claimant was hospitalized a week before the hearing for auditory hallucinations psychosis and anxiety. Subsequent to the Medical Review Teams denial, the Claimant has submitted new additional psychiatric evidence which indicates that she is currently experiencing an exacerbation of her condition which led to the recent psychiatric hospitalization. Furthermore, the objective medical evidence in the record indicates that the Claimant had surgery on [redacted] and is not to bear any more weight on her foot than can be tolerated; she is not to stand or walk for long periods of time.

In this case, the Department has not met its burden of proof. The Department has provided no evidence that indicates Claimant's condition has improved, or that the alleged improvement relates to his ability to do basic work activities. The Department provided no objective medical evidence from qualified medical sources that show the Claimant is currently capable of doing basic work activities. Accordingly, the Department's SDA and MA eligibility determination cannot be 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 erred in proposing to close Claimant's MA and SDA case.

Accordingly, the Department's action is **REVERSED**, and this case is returned to the local office for benefit continuation as long as all other eligibility criteria are met, with Claimant's next mandatory medical review scheduled in May, 2015, (unless she is approved eligible for Social Security disability benefits by that time).

**It is SO ORDERED.**

Susanne E. Harris

**Susanne E. Harris**
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/26/2015**

Date Mailed: **8/26/2015**

SEH/las

**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: [redacted]