

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016995
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: December 08, 2015
County: Saginaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

DECISION AND ORDER

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 December 8, 2015 from Lansing, Michigan. Claimant participated in the hearing via telephone and provided testimony. [REDACTED] (Eligibility Specialist) represented the Department of Health and Human Services ("Department").

ISSUE

Did the Department properly determine that Claimant was no longer disabled and deny his review application for State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. Claimant was a SDA benefit recipient.
2. Claimant's SDA case was scheduled for review on or about July 31, 2015.
3. On September 3, 2015, the Medical Review Team (MRT) denied Claimant's review application for SDA because Claimant was no longer disabled.
4. On September 9, 2015, the Department sent Claimant notice that his SDA case would be closed based upon medical improvement.
5. On September 28, 2015, Claimant requested a hearing to contest the Department's negative action.
6. A telephone hearing was held on December 8, 2015.

7. Claimant was receiving SDA at the time of his review.
8. Claimant has alleged the following disabling impairments: chronic neck pain, chronic lower back pain and hypertension.
9. Claimant, at the time of the hearing, is a 51 (fifty-one) year-old man with a birth date of [REDACTED].
10. Claimant is 5'5" tall; and, at the time of the hearing, weighed approximately 112 (one hundred and twelve) pounds (lbs).
11. Claimant has a high school education with 1 semester of college.
12. Claimant last worked as a concrete laborer in 2013. Previously, Claimant worked on a farm and has experience with automobile repair and body work.
13. Claimant alleges that his neck pain has improved, but that his lower back has worsened.
14. Claimant's relevant medical records indicate as follows:
 - a. Claimant has spondylosis and back pain.
 - b. On December 30, 2014, Claimant underwent neck surgery with the insertion of metal plate implants and screws.
 - c. On June 1, 2015, Claimant had a low back MRI which revealed hyperlordosis of the lumbar sacral spine and stenosis with severe facet arthropathy.
 - d. On September 30, 2015, Claimant's lumbar spine x-ray showed transitional lumbar vertebra with fixed 4 mm anterolisthesis of L5 over S1. He also had mild rotatory dextroscoliosis.
 - e. On September 30, 2015, Claimant had an electromyogram which indicated "right L5 nerve root irritation/mild radiculopathic process."
 - f. Claimant's follow up visit on August 26, 2015 demonstrated continued low back pain with right foot numbness and tingling. He is only able to stand for 15 minutes.

CONCLUSIONS OF LAW

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).

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).

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 question 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 the first step because he has not engaged in substantial gainful activity at any time relevant to this matter. The evidence on the record does not establish that Claimant has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. However, there is evidence that he has nerve root compression. 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).

In this case, the Medical Review Team (MRT) upheld the denial of SDA benefits on the basis that Claimant's medical condition had improved. Pursuant to the above-mentioned federal regulations, the Department, at medical review, 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).

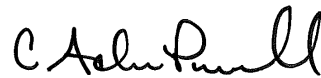
The Administrative Law Judge had carefully reviewed the objective medical records in this matter. The records do not demonstrate that Claimant has improved. The Department has not met its burden of proof. The Department has provided no evidence that indicates Claimant's condition has improved, or that 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 Claimant is currently capable of doing basic work activities. Accordingly, the Department's SDA 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 SDA case based upon a finding of improvement at review.

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 December, 2016, (unless he is approved eligible for Social Security disability benefits by that time).

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: 12/14/2015

CAP/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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

