



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: April 19, 2017  
MAHS Docket No.: 17-002304  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Vicki Armstrong

**HEARING DECISION**

Following Petitioner'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 [REDACTED], from [REDACTED], Michigan. Petitioner personally appeared and testified. [REDACTED] and [REDACTED], witnesses on behalf of Petitioner, also appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist, [REDACTED]. The Department submitted 1,011 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

**ISSUE**

Whether the Department properly determined that Petitioner was no longer disabled and denied his Redetermination 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. On [REDACTED], Petitioner applied for and was approved for SDA. [Dept. Exh. 12-18].
2. On [REDACTED], Petitioner's SDA Redetermination was forwarded to the Medical Review Team (MRT) for his [REDACTED], MRT review. [Hearing Summary].

3. On [REDACTED], the MRT denied Petitioner's Redetermination for SDA. [Dept. Exh. 5-11].
4. On [REDACTED], the Department issued Petitioner a Notice of Case Action indicating his SDA benefits would close effective [REDACTED]. [Dept. Exh. 899-902].
5. Petitioner has been diagnosed with a traumatic brain injury (TBI), lumbar myofascial pain, chronic pain syndrome, hypertension, hypokalemia, arthropathy of lumbar facet joint, sacroiliitis, lumbar radiculitis, lumbosacral spondylosis without myelopathy, agoraphobia with panic attacks, depression with anxiety, bipolar affective disorder, posttraumatic stress disorder (PTSD), psychosis, spinal stenosis, and cervicalgia.
6. On [REDACTED], Petitioner underwent a lumbar spine CT revealing lumbar spondylosis with moderate to severe spinal canal stenosis at L3-L4 and L4-L5. [Dept. Exh. 168-169].
7. On [REDACTED], Petitioner underwent a lumbar spine MRI without contrast based on low back pain radiating to the right leg with numbness. The MRI revealed lumbar spondylosis with moderate spinal canal stenosis at L2-L3 and L3-L4, and the height of the osseous at multiple levels or nerve root impingement. [Dept. Exh. 127-128].
8. On [REDACTED], Petitioner underwent an independent psychological evaluation on behalf of the Department. Petitioner was in a wheelchair and Petitioner's caregiver guided Petitioner into the office. The psychologist noted that Petitioner's affect was restricted and he was irritable. He frequently shifted his posture, which appeared to be related to his discomfort. He was guarded. He appeared to minimize his symptoms. He had difficulty staying on task and was circumstantial. The psychologist also reviewed Petitioner's medical records from [REDACTED]. Petitioner was being followed by a psychiatrist, counselor, and [REDACTED] for agoraphobia with panic attacks, chronic major depression disorder, hypertension, hypokalemia, psychosis, bipolar affective disorder, PTSD, severe recurrent major depression with psychotic features mood-congruent, and spinal stenosis. Also, included in the medical records was a Progress Note from [REDACTED], which indicated that Petitioner did in fact sustain a closed head injury, secondary to assault, in addition to acquiring emotional distress in the form of PTSD subsequent to the way in which the injuries occurred. The examining psychologist opined that it appeared that Petitioner would have difficulty completing simple to complex tasks at an appropriate pace, due to distractibility and decrease in focus, supported by his anxiety and depression. The psychologist noted that Petitioner rarely left his home and was irritable and withdrawn. Prognosis was guarded and indicated Petitioner needed consistent psychological care. [Dept. Exh. 33-37].

9. On [REDACTED], Petitioner submitted a Request for Hearing contesting the Department's negative action. [Dept. Exh. 3-4].

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 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).

Petitioner 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 Petitioner 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).

Pursuant to federal regulations, at medical review, the Department has the burden of not only proving Petitioner'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 Petitioner 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, based on the record evidence, the Department has not met its burden of proof. The Department has provided no evidence that indicates Petitioner'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 Petitioner is currently capable of doing basic work activities. Accordingly, the Department's SDA eligibility determination cannot be upheld at this time.

**DECISION AND ORDER**


Accordingly, the Department's determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process Petitioner's [REDACTED], SDA redetermination, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in [REDACTED], unless his Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.

**It is SO ORDERED.**

VLA/bb



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**Vicki Armstrong**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]