



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 7, 2018
MAHS Docket No.: 18-004607
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. After due notice, a telephone hearing was held on July 10, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist Renee Jones. Ms. Jones testified on behalf of the Department. The Department submitted 785 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 her 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. Petitioner was receiving Disability Medicaid at all times pertinent to this case.
2. Petitioner was approved for SDA benefits by the Medical Review Team on April 19, 2017. [Dept. Exh. 33].
3. On [REDACTED], 2017, Petitioner underwent a sleep study. Petitioner was diagnosed with mild obstructive sleep apnea/hypopnea index of 11.8 with oxygen desaturation as low as 88%. Mild snoring. No significant periodic leg movements with a PLM index of 0. [Dept. Exh. 362].

4. On [REDACTED], 2017, the final diagnosis in the CPAP Titration Report was obstructive sleep apnea with good titration and no significant periodic leg movement with a PLM index of 0. [Dept. Exh. 361].
5. On June 30, 2017, Petitioner timely submitted a redetermination for Disability Medicaid benefits alleging continuing disability.
6. On [REDACTED], 2017, Petitioner underwent an echocardiogram. The results indicated that the global systolic left ventricular contractility was normal. The ejection fraction was estimated at 55-60%. There was moderate concentric left ventricular hypertrophy. The left atrium was mildly enlarged. The mitral valve was post repair. There was mild mitral regurgitation. The aortic valve was a bioprosthetic and functioning well. The gradients were mildly elevated with elevated filling pressures. [Dept. Exh. 309-312].
7. On [REDACTED], 2017, Petitioner underwent an internal medicine examination on behalf of the Department. Petitioner alleged disability due to chest pain, depression based on numerous nervous breakdowns, hypertension, arthritis, chronic joint pain, torn rotator cuff bilaterally, deteriorating disc in the lower back and spine, two torn tendons in the right hand, faded vision and an inability to bend. The physician opined that Petitioner's upper and lower extremities had normal function, strength, and range of motion. She had shortness of breath on climbing stairs. Petitioner still had a very loud systolic murmur on examination and significant pain and tenderness over the sternal area. Her ability to perform work-related activities such as bending, stooping, lifting, walking, crawling, squatting, carrying and traveling as well as pushing and pulling heavy objects was mildly impaired due to the objective findings. [Dept. Exh. 277-285].
8. On [REDACTED], 2018, Petitioner followed up with her cardiologist. Petitioner had gained weight and her blood pressure was elevated. On examination, the cardiologist indicated that Petitioner looked well and was in no acute distress. Her mood and affect appeared normal. She had clear lung fields with good air movement. No rales, wheezing or rhonchi. The cardiac examination revealed S1 and S2 were normal with regular rate, rhythm and intensity. There was no audible S3. Systolic 2/6 RUSB/LSB murmur. The extremities showed no peripheral edema or cyanosis. Good distal pulses. Range of motion appeared normal with adequate strength. She had no motor or sensory deficits. Her reflexes were normal. [Dept. Exh. 299-301].
9. Petitioner has been diagnosed with a myocardial infarction, non-ischemic cardiomyopathy, valvular heart disease, aortic regurgitation, arteriosclerotic heart disease, mitral regurgitation, supraventricular tachycardia, hypertension, chronic obstructive pulmonary disease, chronic obstructive lung disease, shortness of breath, swollen ankles, obstructive sleep apnea, vitamin D deficiency, coronary atherosclerosis, coronary arteriosclerosis, chronic systolic heart failure, keloidal surgical scar, iron deficiency anemia, sleep disorder and fatigue.

10. On February 24, 2018, the Medical Review Team (MRT) denied Petitioner's continuing Disability Medicaid benefits based on medical improvement. [Dept. Exh. 6-12].
11. On March 30, 2018, the Department mailed Petitioner a Notice of Case Action, informing Petitioner the SDA benefits would close effective May 1, 2018. [Dept. Exh. 4].
12. On May 8, 2018, Petitioner submitted a Request for Hearing to the Department contesting the Department's denial.

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.

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

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 she has not engaged in substantial gainful activity at any time relevant to this matter. Further, 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).

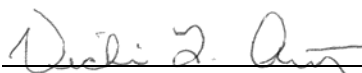
In this case, the medical evidence of record has shown improvement in Petitioner's symptoms. The evidence is based on medical sources as well as Petitioner's own cardiologist's records.

As a result, the Department has met its burden of proof. The Department has provided evidence that indicates Petitioner's medical condition has improved and that improvement relates to her ability to do basic work activities. The agency has provided objective medical evidence from qualified medical sources that show Petitioner is currently capable of doing basic work activities.

DECISION AND ORDER

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

VLA/nr



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) 763-0155; 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

Dora Allen
14061 Lappin
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Wayne 76 County DHHS- via electronic
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Petitioner

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MI