



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 9, 2018
MAHS Docket No.: 18-005037
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 26, 2018, from Detroit, Michigan. Petitioner represented himself. [REDACTED], Petitioner's wife; [REDACTED] Petitioner's friend; and [REDACTED] Petitioner's friend, also appeared on behalf of Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator and [REDACTED] Eligibility Specialist.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

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 a recipient of SDA benefits.
2. On February 7, 2017, Petitioner was found disabled by the Disability Determination Service (DDS)/Medical Review Team (MRT) for purposes of disability-based Medicaid. The DDS concluded that despite some (physical) improvement, due to breathing impairment, Petitioner continued to be unable to do sustained work even at light RFC level; therefore, there would be no significant, work-related, medical improvement. (Exhibit A, pp. 161-166.)
3. The DDS conducted a review of Petitioner's medical condition on February 1, 2018.

4. In connection with a February 2018 review, DDS indicated that “[c]areful consideration has been given to the claimant’s allegations and symptoms. Claimant has MDI established that could cause problems with daily and work functioning. However, the totality of the evidence does not support total disability. The claimant’s medically determinable impairments could reasonably be expected to produce the alleged symptoms, but the claimant’s statements concerning the intensity, persistence and limiting effects of these symptoms are not entirely consistent when compared to the limitations suggested by the objective MER in file.” (Exhibit A, pp. 12-18).
5. On May 18, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice which notified him that because he had experienced medical improvement and was no longer disabled, he was eligible for MA benefits subject to a [REDACTED] monthly deductible effective June 1, 2018. (Exhibit A, pp. 6-7).
6. On May 25, 2018, the Department received Petitioner’s timely written request for hearing concerning the finding that he has experienced medical improvement and was no longer disabled (Exhibit A, pp. 4-5).
7. Petitioner alleged disabling impairment due to obesity, sleep apnea, and dyspnea.
8. At the time of hearing, Petitioner was [REDACTED] years old with an [REDACTED] [REDACTED] birth date; he is 6’0” in height and weighs about 315 pounds.
9. Petitioner has a GED and additional training as a nursing assistant.
10. Petitioner has an employment history of work as a welder.
11. Petitioner does not have pending disability claim with the Social Security Administration (SSA).

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 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 disabled person is eligible for SDA. BEM 261 (July 2014), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment lasting, or expected to last, at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

As a condition of ongoing SDA eligibility, a client must apply for benefits with the Social Security Administration and timely appeal any SSA denial. BEM 271 (January 2016), pp. 1, 7-9. When SSA determines that a disability does not exist and the SSA decision is final, the SDA case must be processed for closure. BEM 271, p. 9. An SSA decision is final when (i) it was made after January 1, 1990; (ii) no further appeals may be made at SSA; (iii) the client failed to file an appeal at any step with SSA's 60-day limit; and (iv) the client is not claiming a totally different disabling condition than the condition SSA based its determination on or an additional impairment, change or deterioration in his condition that SSA has reviewed and not made a determination on yet. BEM 271, p. 9.

In the instant case, Petitioner testified that he has previously applied for benefits with the SSA. Petitioner's wife testified that Petitioner applied for benefits with the SSA "a few years after Petitioner got sick." Petitioner's wife confirmed that an appeal was filed but denied. Petitioner's wife indicated that Petitioner again applied for benefits when he applied for SDA benefits. Petitioner's wife indicated that the second appeal was also denied. The Department testified that Petitioner applied for SDA benefits on February 2, 2016. Petitioner confirmed that, as of the date of the hearing, he does not have an application or appeal pending with the SSA. It is therefore found, that Petitioner is not entitled to SDA benefits.

On May 18, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice which notified Petitioner that he was approved for MA benefits subject to a deductible of \$ [REDACTED] per month. The Notice indicated that Petitioner has medical improvement and was no longer disabled according to the state's guidelines of disability. Because Petitioner does not have a pending claim with the SSA, Petitioner is not eligible for SDA benefits. As such, this decision will not address whether there has been medical improvement. The Department testified that it assessed Petitioner's eligibility for the most beneficial MA program because Petitioner was no longer eligible for SDA benefits.

The Department determined that the most beneficial program that Petitioner was eligible for was G2C MA benefits. G2C is a FIP-related Group 2 MA category. BEM 135 (October 2015), p. 1. MA is available to parents and other caretaker relatives who meet the eligibility factors. BEM 135, p. 1. All eligibility factors, which include income, must be met in the calendar month being tested. BEM 135, p. 1. Petitioner's wife is

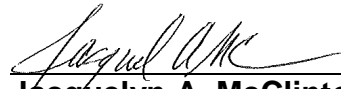
employed and therefore, her income is considered when determining Petitioner's eligibility for MA benefits. Petitioner's Request for Hearing only challenged the finding that he was no longer considered disabled for the purpose of SDA benefits. As previously stated, Petitioner is no longer entitled to SDA benefits. If Petitioner wishes to dispute the amount of the deductible, which is a separate issue than whether he is disabled, he must submit a Request for Hearing on or before August 16, 2018.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Petitioner was no longer eligible for SDA related benefits and further assessed Petitioner for the most beneficial MA program effective June 1, 2018.

DECISION AND ORDER

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

JM/tm



Jacquelyn A. McClinton

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

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]