



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: January 19, 2018
MAHS Docket No.: 17-014673
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 December 20, 2017, from Lansing, Michigan. Petitioner personally appeared and testified and submitted five exhibits which were admitted into evidence.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist, John Fankhauser. Mr. Fankhauser testified on behalf of the Department. The Department submitted 407 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 not disabled for purposes of the State Disability Assistance (SDA) benefit program?

FINDINGS OF FACT

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

1. On May 9, 2015, Petitioner was initially approved for SDA by the Medical Review Team (MRT). [Hearing Summary].
2. On July 8, 2015, a Psychiatric/Psychological Examination Report was completed regarding Petitioner on behalf of the Department. Petitioner arrived alone to the evaluation 12 minutes late. She had poor grooming and hygiene. Her clothing was dirty. She had sores all over her legs. She reported having scabies for over

two years. She reported quitting high school and earning a General Education Diploma (GED). She had a poor work history, and last worked in 2009. Petitioner reported auditory and visual hallucinations, had poor organization skills, anhedonia, and poor social awareness. Her fund of knowledge was marginal. Her memory and ability to reason were poor. Petitioner was diagnosed with schizophrenia, paranoia, cocaine dependence, with a current Global Assessment of Functioning (GAF) of 34. [Dept. Exh. 95-96].

3. On July 8, 2015, a Mental Residual Functional Capacity Assessment was completed of Petitioner on behalf of the Department. Petitioner was markedly limited in understand and memory, sustained concentration and persistence, social interaction, and adaptation. [Dept. Exh. 101-102].
4. Petitioner's SDA benefits were scheduled for review on February 1, 2017. [Hearing Summary].
5. On January 27, 2017, Petitioner submitted her Redetermination. [Dept. Exh. 18].
6. On March 31, 2017, Petitioner underwent a medical evaluation on behalf of the Department. Her chief complaint was degenerative joint disease. The examining physician found Petitioner had post residual tendinopathy and synovitis over the lateral aspect of her left ankle. She had no difficulty doing orthopedic maneuvers and her gait was stable. The physician noted that continued supportive care and anti-inflammatories were indicated. Regarding her neck, there appeared to be a chronic cervical spine strain. The physician opined that Petitioner's main issue appeared to be her bipolar disorder and schizoaffective disorder. She appeared to be hypomanic during the evaluation but there were no findings of psychosis. [Dept. Exh. 248-252].
7. On April 12, 2017, Petitioner underwent an independent psychiatric/psychological evaluation on behalf of the Department. Petitioner reported being in and out of mental institutions with a diagnosis of schizoaffective disorder. She reported seeing things and spirits in her closet, in addition to hearing voices. Her symptoms included daily panic attacks, problems concentrating and focusing, worrying and restlessness. Petitioner was aware of her surroundings. Her attitude was fair to poor. Her judgment and insight were intact, yet she second guessed her decisions. She did not appear to exaggerate or minimize her symptoms. Petitioner was diagnosed with Schizoaffective Disorder, Bipolar type; Generalized Anxiety Disorder; Panic Disorder, and Posttraumatic Stress Disorder (PTSD) with Dissociative Symptoms. Her prognosis was fair to guarded. The psychologist opined that Petitioner's history of mood, medical and psychiatric issues had prevented her from participating in successful long-term employment. Petitioner was noted to give up easily on projects due to becoming overwhelmed, and was easily agitated and distracted suggesting that she was in a manic phase of her disorder. The psychologist indicated that any employments would have limits due to her overall condition. [Dept. Exh. 118-127].

8. On April 25, 2017, the Medical Review Team (MRT) denied Petitioner's Redetermination. [Dept. Exh. 18-24].
9. On October 18, 2017, the Department issued Petitioner a Health Care Coverage Determination Notice informing her that her SDA benefits would close effective November 1, 2017, ongoing. [Dept. Exh. 2-3].
10. On November 9, 2017, Petitioner submitted a Request for Hearing. [Dept. Exh. 4].
11. Petitioner's disabling impairments include schizoaffective disorder, bipolar-manic depressive disorder, degenerative spondylosis, degenerative disc disease, a fractured ankle, low hemoglobin, severe factitial dermatitis, goiter, and an unexplained weight loss of 25 pounds over the last two years.
12. Petitioner credibly testified that she cannot get around to get into the shower and she is losing her hair. She also reported seeing visions, dreams, and spirits. Petitioner resides with her sister and son. [Testimony of ██████████].
13. The Department representative credibly testified that Petitioner's weight loss was observable, as were the sores on her head, and her anxiety had increased. [Testimony of John Fankhauser].
14. Petitioner is a █████-year-old woman, born on ██████████, 1961. Petitioner is 5'5" and weighs 115 pounds. Petitioner has a high school equivalent education. Petitioner last worked in January of 2010, as a line worker.

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 she 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, Petitioner underwent several mental status evaluations as noted above. The evaluations did not indicate a decrease in medical severity based on improvement of Petitioner's symptoms.

In this case, the Department has not met its burden of proof. The Department has provided no evidence that indicates Petitioner's conditions have improved, or that the alleged improvement relates to her 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 January 27, 2017, SDA redetermination, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in January of 2019, unless her 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 her continued treatment, progress and prognosis at review.

It is SO ORDERED.

VLA/bb



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

Barbara Hamilton
1040 South Winter Street
Ste. 3013
Adrian, MI 49221

Lenawee County, DHHS

BSC4 via electronic mail

L. Karadsheh via electronic mail

Petitioner

