

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

IN THE MATTER OF:



Reg. No.: 14-008458
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 2, 2014
County: Mecosta

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

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 October 2, 2014, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED].

During the hearing, Claimant submitted additional medical evidence. This matter is now before the undersigned for a final decision.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the 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. On May 29, 2014, Claimant filed an application for SDA benefits alleging disability.
2. On July 23, 2014, the Medical Review Team (MRT) denied Claimant's application for lack of duration. (Depart Ex. A, pp 71-72).
3. On July 25, 2014, the Department sent Claimant notice that his application for SDA had been denied.
4. On July 31, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
5. Claimant was appealing the denial of Social Security benefits at the time of the hearing.

6. Claimant is a 50 year old man whose birthday is [REDACTED].
7. Claimant is 6'0" tall and weighs 135 lbs.
8. Claimant does not have a drug or alcohol problem. Claimant smokes half a package of cigarettes a day.
9. Claimant has a driver's license and is able to drive.
10. Claimant has a tenth grade education.
11. Claimant last worked in 2012, cutting down trees around power lines after Hurricane Sandy.
12. Claimant alleges disability on the basis of arthritis, posttraumatic stress disorder, anxiety, depression, back pain, neck pain, emphysema, lung cancer, and emphysema.
13. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
14. Claimant's complaints and allegations concerning his impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of 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 Family Independence Agency) 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.

"Disability" is:

. . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. [SDA = 90 day duration].

[As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

On [REDACTED], Claimant's treating psychiatrist diagnosed Claimant with: Axis I: Major depressive disorder, recurrent, severe; nicotine dependence, alcohol abuse, amphetamine abuse, opioid abuse, polysubstance dependence; Axis II: Borderline personality disorder; Axis III: generalized pain; Axis IV: economic problems, problem accessing healthcare, educational problems, occupational problems, housing problems, problem with primary support group; problem related to social environment; problem related to interaction with legal system; other psychosocial and environmental problems, behavioral/personality issues; Axis V: GAF=[REDACTED]

According to the DSM-IV, 4th Ed., a GAF of [REDACTED] indicates some impairment in reality testing or communication (e.g., speech is at times illogical, obscure, or irrelevant) or major impairment in several areas, such as work or school, family relations, judgment,

thinking, or mood (e.g., depressed adult avoids friends, neglects family, and is unable to work; child frequently beats up younger children, is defiant at home, and is failing at school).

Claimant's primary care physician completed a Medical Examination Report on behalf of the Department on [REDACTED]. Claimant is diagnosed with left lower extremity weakness, neck pain, back pain, upper extremity numbness and weakness. Claimant was unable to sit on the exam table due to pain. Pain present in neck and lower back. The CT of Claimant's chest with IV contrast revealed speculated left upper lobe/apical mass with chest invasion, most likely a primary lung carcinoma. There were also prominent left hilar lymph node and bilateral pulmonary nodules which could be metastases, in addition to emphysema. An MRI of the lumbar spine without contrast shows degenerative changes of the disc and facet joints from L2-L3 to L4-L5. At the L4-L5 level, there is a broad based central/left posterolateral disc protrusion that could be impinging on the traversing left L5 nerve. The MRI of the cervical spine without contrast shows degenerative and postoperative changes with multiple-level neural foraminal narrowing at C3-C4, C4-C5, and C6-C7. Based on the physician's review of Claimant's cervical and lumbar x-rays as well as the MRI's, the physician opined Claimant's condition is deteriorating.

On [REDACTED], Claimant was referred by [REDACTED] to the emergency department for a mental evaluation. Claimant had multiple superficial lacerations self-inflicted by a razor blade of bilateral forearms, arms, upper extremities and neck. Claimant said that he had stopped taking his lithium several days ago and had not been taking his medications. Claimant had a known diagnosis of major depression disorder with a possible bipolar or borderline disorder. Claimant's entire workup and evaluation was negative for acute pathology requiring nonmedical clearance. Therefore, Claimant was transferred to [REDACTED] facility for inpatient workup and evaluation as arranged from [REDACTED]. Claimant was diagnosed with acute suicidal ideation and multiple attempts in addition to acute major depression poorly medically controlled. He was transferred to [REDACTED] in stable condition.

The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. Claimant's treating physician submitted a statement indicating Claimant's condition is deteriorating. Because Claimant's treating physician's opinion is well supported by medically acceptable clinical and laboratory diagnostic techniques, it has controlling weight. 20 CFR 404.1527(d)(2). As such, the Department's denial of SDA pursuant to Claimant's May 29, 2014, SDA application cannot be upheld.


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 Claimant disabled for purposes of the SDA benefit program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department erred in determining that Claimant was not disabled by SDA eligibility standards.

Accordingly, the Department's decision is **REVERSED**, and this case is returned to the local office to determine whether Claimant met all the other financial and non-financial eligibility factors necessary to qualify for SDA.

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/14/2014**

Date Mailed: **10/14/2014**

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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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

cc:

