

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

IN THE MATTER OF:



Reg. No.: 14-008066
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: October 2, 2014
County: Barry

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 Assistance Payment Supervisor [REDACTED].

During the hearing, Claimant submitted additional medical evidence from Claimant's orthopedist and the wound clinic. 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 program?

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 October 11, 2010, Claimant filed an application for SDA benefits alleging disability.
- (2) On February 22, 2011, the Medical Review Team (MRT) denied Claimant's application for SDA stating that Claimant's physical impairment will not prevent employment for 90 days or more. (Department Exhibit A, pages 1-2).
- (3) On March 2, 2011, the Department sent Claimant notice that his SDA application was denied. (Hearing Summary).
- (4) On March 18, 2011, Claimant filed a request for a hearing to contest the Department's negative action.

- (5) Claimant has a history of mild left side cerebral palsy, attention deficit hyperactivity disorder (ADHD), and recurrent major depressive disorder.
- (6) Claimant is a 45 year old man whose birthday is [REDACTED]. Claimant is 5'6" tall and weighs 173 lbs. Claimant completed high school. Claimant last worked in September 2008.

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 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.

In this case, Claimant fell down stairs on [REDACTED]. He underwent open reduction internal fixation left bimalleolar ankle examination under fluoroscopy on [REDACTED], and was placed in a splint. During a follow-up visit on [REDACTED], Claimant had some mild serous drainage, and was placed in an air walker and instructed he was to be non-weight bearing for six weeks.

Claimant met with his orthopedist on [REDACTED]. He reported he was still having some mild orangish drainage from the outside of his ankle. X-rays showed his posterior formina at the distal fibula had not healed as well as a mildly displaced posterior malleolus fracture. He was told to continue non-weight bearing.

On [REDACTED], Claimant stated he had noticed some redness in his leg and some drainage from his lateral incision. He was still wearing the non-weight bearing boot. He said he had been to the emergency department on [REDACTED], where he had cultures and they had put him on Clindamycin. On exam, there was a gapping to the mid portion of the lateral malleolar incision. There was purulent serous drainage to the wound with minimal erythema and no erythematous streaking. The labs from [REDACTED] revealed Staphylococcus aureus. On [REDACTED], Claimant had an 11mm x 5mm wound dehiscence without erythematous border. A slight pseudomembrane was noted on the inside of his wound. He also had some erythema and pitting edema noted in his foot with mild tenderness to palpitation. He was instructed to begin weight bearing in his air walker.

On [REDACTED], Claimant stated he was weight bearing more with less pain. Exam of the ankle revealed a small 2.5mm x 1mm wound, distal aspect of his incision with serous drainage. He had limited ankle dorsiflexion and plantarflexion. The swelling had a rubrous appearance. X-rays showed the fracture line was still evident in the lateral view of his fibula without gross evidence of hardware failure or loosening compared to

previous x-rays from [REDACTED]. He was instructed to continue weight bearing as tolerated in his Air walker and graduate to regular shoe wear and work boot as needed.

On [REDACTED] Claimant still had a mild open wound to the lateral aspect of the ankle. He was still having some mild, mostly clear drainage. He stated he had pain if he was not wearing his boot. He was ambulating without an assistive device. Examination of the left ankle showed a 1 x 1 mm wound, at the distal aspect of the lateral incision. There was mild serous drainage.

On [REDACTED], Claimant was still wearing the boot and complaining of some mild bloody drainage from the outside of his ankle. Examination of the left ankle showed a 1 x 1 mm wound, at the distal aspect of the lateral incision with no active drainage. A CT scan of the left ankle revealed a healed fixator fracture. There was no evidence of hardware failure and his labs were normal. Claimant was advised to start walking in a regular shoe due to his osteopenia.

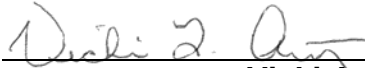
On [REDACTED], Claimant was still having drainage from his wound and pain. He had about a 3-mm superficial wound with purulence and swelling noted. His bone density dated [REDACTED], revealed osteopenia. Claimant was prescribed Cipro and referred to the wound clinic. The orthopedist contemplated hardware removal and debriding the area if Claimant is unable to heal it. After attending the wound clinic, Claimant met with his orthopedist on [REDACTED]. Claimant was still having chronic wound drainage. Claimant had fluctuance noted over his lateral incision with swelling. X-rays revealed an osteolytic area over the medial malleolus. The surgical procedure, risks and complications were explained regarding hardware removal. Verbal consent from Claimant was obtained. Surgery will be scheduled in the near future.

As indicated from Claimant's objective medical records, Claimant has been unable to work since [REDACTED], and there is no indication the wound has healed, or that Claimant's physician has released Claimant to work. Therefore, 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

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: **10/15/2014**

Date Mailed: **10/15/2014**

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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:

