

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018494
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: February 5, 2015
County: Genesee-District 2

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 February 5, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED].

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 August 1, 2014, Claimant filed an application for SDA benefits alleging disability.
- (2) On November 7, 2014, the Medical Review Team (MRT) denied Claimant's application for SDA indicating that Claimant's impairments will not prevent employment for 90 days or more.
- (3) On November 12, 2014, the Department sent Claimant notice that his SDA application was denied.
- (4) On December 18, 2014, Claimant filed a request for a hearing to contest the Department's negative action.
- (5) Claimant has a history of osteoarthritis, vision problems, hypertension, mood disorder, anxiety, depression and bipolar disorder.

- (6) Claimant is a 53 year old man whose birthday is [REDACTED]. Claimant is 6'0" tall and weighs 225 lbs. Claimant completed high school. Claimant last worked in 2011.

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.

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.

In this case, Claimant underwent an independent psychiatric evaluation on [REDACTED], on behalf of the Department. Claimant was diagnosed with Depression and a GAF score of [REDACTED]. According to his Mental Residual Functional Capacity Assessment, Claimant was markedly limited in his ability to carry out detailed instructions; maintain attention and concentration for extended periods; work in coordination with or proximity to others without being distracted by them; complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and

length of rest periods; accept instructions and respond appropriately to criticism from supervisors; get along with co-workers or peers without distracting them or exhibiting behavioral extremes; respond appropriately to change in the work setting; and to set realistic goals or make plans independently of others.

On [REDACTED], Claimant's treating physician completed a Medical Examination Report on behalf of the Department. Claimant is diagnosed with depression and anxiety and is having panic attacks. The physician opined that Claimant's back pain causes some limitations as he is unable to stand or sit for long periods. The physician found Claimant is limited in comprehension, memory, sustained concentration, following simple directions and social interaction. The physician indicated Claimant's condition was deteriorating because his anxiety was worsening, despite seeing a psychiatrist regularly.

On [REDACTED], Claimant underwent additional psychological testing at the Department's referral. The psychologist opined that with regards to cognitive function, Claimant's Full Scale IQ falls in the Low Average range of function. His capacity to utilize social judgment, reason and comprehension in his decision making process falls at the 9th percentile rank in comparison with his same age peers. There is a significant discrepancy noted between his verbal and performance IQ, as well as between his IQ and assessment of Academic Achievement. He appeared to give up easily and quickly at times, motivation and effort appears to be a factor. Claimant reports significant issues related to anxiety, yet denies any history of mental health treatment in the last three years. He reports that his greatest stressor at this time is that he has to move out of his ex-wife's home, and he is unable to financially support himself. The psychologist expressed concern that Claimant is not involved in any ongoing treatment for his "stress." The psychologist indicated that it is difficult to discern, if with appropriate treatment, Claimant wouldn't evidence a higher level of function. The psychologist recommended that Claimant be engaged in consistent outpatient mental health services to address his emotional stressors and coping skills, which may be helpful in assessing his true level of function and potential.

As indicated from Claimant's objective medical records, Claimant is unable to work at this time due to his mental impairments. 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

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department erred in determining Claimant is not currently disabled for SDA eligibility purposes.

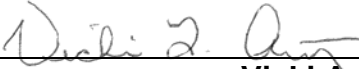
Accordingly, the Department's decision is **REVERSED**, and it is ORDERED that:

1. The Department shall process Claimant's August 1, 2014, SDA application, and shall award him all the benefits he may be entitled to

receive, as long as he meets the remaining financial and non-financial eligibility factors.

2. The Department shall review Claimant's medical condition for improvement in June, 2015, unless his Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review, in particular from his primary care physician and treating psychiatrist.

It is so ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/2/2015**

Date Mailed: **3/2/2015**

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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 48909-8139

cc:

