

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-9164
Issue No(s): 4009
Case No.: [REDACTED]
Hearing Date: March 11, 2014
County: Wayne-31

ADMINISTRATIVE LAW JUDGE: Vicki L. 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 March 11, 2014, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistance Payment Worker [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Whether the Department properly denied Claimant's State Disability Assistance (SDA) application?

FINDINGS OF FACT

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

1. On July 30, 2013, Claimant filed an application for SDA benefits alleging disability.
2. On September 20, 2013, the Medical Review Team (MRT) denied Claimant's SDA application for lack of duration. (Depart Ex. A, pp 3-4).
3. On October 22, 2013, the department caseworker sent Claimant notice that her application for SDA had been denied.
4. On October 25, 2013, Claimant filed a request for a hearing to contest the department's negative action.
5. On January 9, 2014, the State Hearing Review Team (SHRT) found Claimant was not disabled and denied SDA based on Claimant's capacity to perform past relevant work. (Depart Ex. B, pp 1-2).

6. Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.
7. Claimant is a 51 year old woman whose birthday is [REDACTED]. Claimant is 5'0" tall and weighs 119 lbs.
8. Claimant does not have an alcohol, drug or nicotine problem.
9. Claimant has a driver's license and is unable to drive because she cannot turn her head or lift her right arm.
10. Claimant has a high school education.
11. Claimant is not currently working. She last worked in May, 2011.
12. Claimant alleges disability on the basis of anterior subluxation, cervical kyphosis, cervical spondylosis, right brachial plexopathy, right internal derangement, degenerative disc disease and major depression.
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 her 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

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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).

Claimant's treating physician completed a Medical Examination Report at the request of the Department. Claimant is diagnosed with anterior subluxation, cervical kyphosis, mechanical neck pain, cervical spondylosis, right brachial plexopathy and right internal derangement. Claimant is currently prescribed Vicodin, Evista, Flexeril, Hydrocodone and Timolol. Based on Claimant's medical records from her orthopedist, neurologist, physical therapist, MRI and x-rays, the treating physician opined Claimant's condition is deteriorating. She is limited to lifting 5 pound occasionally, sitting no longer than 45 minutes, no fine manipulating,

Claimant underwent an independent psychiatric evaluation. The psychiatrist opined that Claimant is unable to be gainfully employed. She has significant depression and chronic pain. She has crying spells, low energy and feels helpless. She has limited support systems and has limited access to healthcare and is unable to get adequate healthcare. She needs psychosocial assistance and treatment for depression. Her prognosis is poor for her ability to be productive.

Claimant's credible testimony and the medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. Moreover, Claimant's treating physician opined that 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 July 30, 2013, SDA application cannot be upheld.

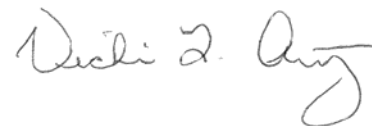
DECISION AND ORDER

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 July 30, 2013, SDA application, 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 Claimant's medical condition for improvement in April, 2015, unless her 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 her continued treatment, progress and prognosis at review.

It is SO ORDERED.



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

Date Signed: March 24, 2014

Date Mailed: March 24, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

VLA/las

cc:

