

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005532
Issue No.: 4009
Case No.: [REDACTED]
Hearing Date: June 18, 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 June 18, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Ms. [REDACTED], a representative from the [REDACTED] and Vocational Rehabilitation Counselor [REDACTED] from [REDACTED]. Participants on behalf of the Department of Health and 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 December 3, 2014, Claimant filed an application for SDA benefits alleging disability.
2. On March 18, 2015, the Medical Review Team (MRT) denied Claimant's application for SDA.
3. On March 20, 2015, the Department sent Claimant notice that her application for SDA had been denied.
4. On April 6, 2015, Claimant filed a request for a hearing to contest the department's negative action.

5. Claimant had applied for Social Security disability benefits at the time of the hearing.
6. Claimant is a 56 year old woman whose birthday is [REDACTED]. Claimant is 5'2" tall and weighs 200 lbs.
7. Claimant does not have a driver's license and is unable to drive.
8. Claimant has a high school education.
9. Claimant is not currently working. Claimant last worked in August, 2014.
10. Claimant alleges disability on the basis of diabetes, gastroesophageal reflux disease, osteoarthritis, hypertension, migraines, spells, shingles, degenerative disc disease, ischemic heart disease, bilateral carpal tunnel syndrome, asthma, atypical chest pain, degenerative joint disease, contact dermatitis, obesity, severe anxiety and depression.
11. Claimant's impairments have lasted, or are expected to last, continuously for a period of twelve months or longer.
12. 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

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 Human Services Reference Tables Manual (RFT).

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 on behalf of the Department on [REDACTED]. The physician noted Claimant's condition is stable with physical limitations expected to last more than 90 days. The physician indicated Claimant can never lift less than 10 pounds, stand/walk less than 2 hours a day and is unable to sit for 6 hours in an 8-hour workday. Claimant is also unable to use her hands/arms for simple grasping, reaching, pushing/pulling or fine manipulation and cannot use or operate foot/leg controls. The physician noted Claimant is slow to process due to her head injury. She also has decreased reflexes, intermittent low back pain, shortness of breath, dyspnea, lightheadedness, difficulty walking, wheezing and asthma. The physician opined Claimant is unable to meet her own needs in the home and requires assistance with housework and laundry.

On [REDACTED], Claimant underwent an independent medical evaluation. Claimant was diagnosed with diabetes, bronchial asthma, atypical chest pain, degenerative joint disease, contact dermatitis, ischemic heart disease, obesity and major depression and situational disorder. The examining physician opined Claimant suffers from severe psychological situational problems and is very depressed. The physician indicated Claimant needs a psychiatric examination to determine her employability and without clearance from a psychiatrist, there is not much she can do.

Claimant had a psychological evaluation on behalf of the Department on [REDACTED]. The psychologist indicated Claimant's demonstrated affect was very anxious and depressed with frequent tearfulness. She reported a history of depression secondary to her son's death as well as medical stressors and job loss. She was easily overwhelmed on the sensorium and mental capacity of the evaluation. The psychologist indicated Claimant has a number of medical issues. She suffered a closed head injury during a slip and fall accident at Meijer in 2003. She was unconscious for an unknown period of time and hospitalized three nights. She continues to experience daily headaches, memory problems, right-side weakness and some blackouts as a result of the accident. Diagnosis: Axis I: Severe anxiety and reactive depression secondary to son's death, job loss and medical stressors; Axis II: None; Axis III: Diabetes, high blood pressure, asthma, high cholesterol, kidney infection, shingles, history of closed head injury with ongoing headaches, memory deficits, right-side weakness and blackouts; Axis V: [REDACTED]. The psychologist recommended Claimant become involved in outpatient psychiatric treatment designed to reduce psychiatric symptoms, stabilize daily functioning, and provide emotional support in any future educational and vocational endeavors. Ongoing use of psychotropic medication may be an appropriate component of this treatment. Such treatment will be a necessary adjunct to any successful long-term attempt at vocational rehabilitation.

Claimant credibly testified that he has a limited tolerance for physical activities and is unable to stand or sit for lengthy periods of time. She testified she broke her leg resulting in the insertion of 14 pins and limps a lot as a result.

Claimant's vocational rehabilitation counselor from [REDACTED] credibly testified that she has been working with Claimant for over seven months and has been unable to find Claimant eligible or able to work. The counselor explained that Claimant is a danger to herself and others. She has blackouts. She is unable to sit or stand for a significant period of time. She also has difficulty concentration and has to write things down before she can say them.

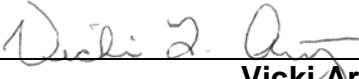
The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. Moreover, Claimant's treating physician opined that Claimant was disabled for longer than 90 days and is unable to meet her own needs in the home. As such, the Department's denial of SDA pursuant to Claimant's December 3, 2014, SDA application cannot be upheld.

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 Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **6/19/2015**

Date Mailed: **6/19/2015**

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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:

