

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015847
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: October 29, 2015
County: SANILAC

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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 29, 2015, from Lansing, Michigan. The Claimant, [REDACTED] appeared and testified. The Department was represented by Eligibility Specialist, [REDACTED]

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

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 May 15, 2015, the Claimant applied for SDA.
2. On July 14, 2015, the Medical Review Team denied the Claimant's request.
3. On August 28, 2015, the Claimant submitted to the Department a request for hearing.
4. The Claimant is [REDACTED]
5. The Claimant completed education through high school.
6. The Claimant has employment experience and last worked in April, 2012 as a farm hand. The Claimant also has employment experience in automotive repairs and construction.

7. The Claimant's limitations have lasted for 12 months or more.
8. The Claimant suffers from neuropathy due to multiple sclerosis. He also suffers from seizures, leg and back pain, depression, anxiety, obsessive-compulsive disorder, tandem ataxia, dyslipidemia and failing kidneys.
9. The Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
10. The Claimant has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

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.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

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 exempted from the supplemental security income citizenship requirement

who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income 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.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA. Under SSI, disability is defined as:

...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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

Since the MRT has determined that the Claimant is not disabled, the Claimant has been diagnosed with multiple sclerosis. The objective, medical evidence in the record contains the results of an August 27, 2015, MRI. The impression was multiple foci of abnormal signal in the brain which are compatible with a demyelinating process, in the appropriate clinical setting. The Claimant testified that he has neuropathy throughout his entire body and is partially paralyzed on his entire left side. When his MS flares up he even has to use a cane. The objective medical evidence in the record supports that the Claimant has had neuropathy of his extremities since before his MS diagnosis. Also included are the results of a visual evoked response test which were found to be abnormal because of a prolongation of P100 latency from both eyes suggestive of dysfunction individual pathways bilaterally.

The Claimant testified that he can only stand for five minutes at a time because his legs will go numb from the hips down. The Claimant can only walk approximately 20 feet. The Claimant testified that how long he can sit depends on whether or not his MS has flared up. The Claimant cannot lift more than a gallon of milk. Recently the Claimant spent four days in the hospital for kidney failure in September 2015. When asked, the Claimant reported that he has had three MS flare-ups in the last four months and that each flare-up last approximately 2 weeks.

In this case, this Administrative Law Judge finds that the Claimant may be considered presently disabled at the third step. The Claimant appears to meet listing 11.09 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Claimant's testimony and the medical documentation support the finding that the Claimant meets the requirements of a listing.

Therefore, the Claimant is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Claimant is medically disabled as of May, 2015.

Accordingly, the Department's decision is hereby REVERSED and the Department is ORDERED to initiate a review of the application dated May 15, 2015, if not done previously, to determine the Claimant's non-medical eligibility. The Department shall inform the Claimant of the determination in writing. A review of this case shall be set for December, 2016.

Susanne E. Harris

Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/2/2015**

SEH/nr

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:

