

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016152-RECON
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: December 9, 2015
County: Lake

SUPERVISING ADMINISTRATIVE LAW JUDGE: Lauren Van Steel

DECISION AND ORDER ON RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the Petitioner's request for reconsideration of the Hearing Decision issued by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on December 9, 2015, and mailed on January 8, 2016, in the above-captioned matter.

The reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015 and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs that is the basis for the petitioner's benefits application, and may be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, reconsideration has been granted, per Order issued on February 18, 2016.

ISSUE

Whether the Department properly determined that Petitioner 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. Findings of Fact No. 1 through 6 under Registration Number 15-016152 are incorporated by reference.
2. On December 9, 2015, a hearing was held resulting in a Hearing Decision mailed on January 8, 2016, which found the Petitioner was not disabled for purposes of the SDA benefit program.

3. On February 1, 2016, Petitioner requested reconsideration/rehearing.
4. Petitioner has a history of chronic obstructive pulmonary disease, rheumatoid arthritis, Barrett esophagus, fibromyalgia, irritable bowel syndrome, hyperlipidemia, asthma, left renal cancer, mitral valve disease, kidney disease, arthritis, lumbosacral degenerative disc disease, chronic pain syndrome, gastroesophageal reflux disease, valvular insufficiency, deep vein thrombosis lower extremities, insomnia, pyelonephritis, urethral erosion, obstructive sleep apnea, memory loss, tremors of the nervous system, osteoarthritis, cervicgia, lumbago, paresthesias, spinal stenosis, type 2 diabetes, scoliosis, high blood pressure, anemia, depression, bicipital tendonitis of the right shoulder, acute cystitis and bilateral carpal tunnel syndrome. (Dept. Exh. A, pp 12, 21).
5. On [REDACTED], Petitioner's treating physician performed a Medical Examination of Petitioner on behalf of the Department. The physician noted Petitioner was weak appearing and fatigued. She was physically deconditioned. Her legs were weak. She had paravertebral tenderness. The physician noted that Petitioner needed a walker. She had shortness of breath due to her cardiac issues. Her physical limitations were expected to last more than 90 days. The physician indicated Petitioner may occasionally lift less than 10 pounds; stand and/or walk less than 2 hours and sit less than 6 hours in an 8-hour workday. Petitioner cannot use her hands and arms for simple grasping, reaching, pushing, pulling or fine manipulation. She cannot use either her feet or legs to operate foot or leg controls. She cannot walk long distances due to needing a walker. The physician opined these limitations were expected to last more than 90 days. The physician indicated Petitioner also had mental limitations in sustained concentration, reading, writing, memory, following simple directions and social interaction. The physician noted Petitioner's overall condition was deteriorating due to cardiac valve worsening and she was unable to meet her own needs in the home. (Dept. Exh. A, pp 12-14).
6. On [REDACTED], a transthoracic echocardiogram (TTE) was performed showing an ejection fraction of 55%, with mild concentric left ventricular hypertrophy. The left atrium was moderately dilated with moderate aortic sclerosis, mild aortic regurgitation, mitral valve appeared rheumatic, severe mitral stenosis, mild mitral regurgitation, and mild tricuspid regurgitation. (Petitioner Exh. F).
7. On [REDACTED], a TTE was performed which showed interatrial shunt flow is present, left to right. The mitral valve appeared rheumatic as the entire posterior leaflet was calcific thickened and immobile and the mid and base of the anterior leaflet appeared pliable. (Pet. Exh. F).
8. On [REDACTED], Petitioner followed up with her primary care physician regarding a surgical evaluation of her mitral stenosis. Petitioner has been followed by cardiology for her rheumatic mitral valve stenosis. She has been having symptoms of increased fatigue and weakness as well as dyspnea at rest and with minimal exertion. It was noted she uses a walker with a chair on it due to shortness of breath and fatigue. She also had increased edema since her last

office visit. Petitioner was referred back to her cardiologist for a mitral valve replacement. (Pet. Exh. F-G).

9. Petitioner is a 49-year-old woman born on [REDACTED]. She is 5'4" tall and weighs 223 pounds and has a high school education. She last worked in 2004.
10. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
11. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer. (Dept. Exh. A, pp 12-14).

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), Department of Health and Human Services Reference Tables Manual (RFT), Department of Health and Human Services Medicaid Provider Manual (MPM), Department of Health and Human Services Modified Adjusted Gross Income Related Eligibility Manual (MREM), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

A person is disabled for SDA purposes if he or she:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability. BEM 261, pp 1-2 (7/1/2014). (Emphasis supplied).

"Disability" is further 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. [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). (Emphasis supplied).

Therefore, the test for receiving SDA benefits in Michigan is whether a person is unable, due to a medically determinable physical or mental impairment, to do any substantial gainful activity for a continuous period of not less than 90 days. In this case, Petitioner's treating physician submitted reports and medical documentation indicating Petitioner is unable to work due to her multiple impairments resulting in disability expected to last more than 90 days. On the basis that Petitioner's treating physician's opinion is well supported by medically acceptable clinical and laboratory diagnostic techniques, it has controlling weight in this matter. 20 CFR 404.1527(d)(2).

As such, the ALJ's decision upholding of the Department's decision denying Petitioner's June 15, 2015 SDA application because Petitioner is capable of light duty is not sufficiently supported. Further, the credible testimony and medical records submitted at hearing verify Petitioner was legally disabled for ninety (90) days and was unable to perform even sedentary duty. A preponderance of credible record evidence shows that

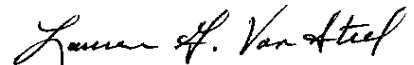
Petitioner meets the criteria for SDA benefits under 20 CFR 416.905 on the basis that she is unable to perform even sedentary work because of multiple impairments likely to last more than 90 days.

DECISION AND ORDER

NOW THEREFORE, the Supervising Administrative Law Judge, based on the above findings of fact and conclusions of law, VACATES the ALJ's Hearing Decision of January 8, 2016, and **REVERSES** the Department's SDA determination of August 4, 2015.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process Petitioner's June 15, 2015 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 Petitioner's medical condition for improvement in February 2017, unless her Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.



Lauren G. Van Steel
Supervising Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/22/2016**

LVS/las

NOTICE OF APPEAL: A party may appeal this Decision and Order on Reconsideration 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.

cc:

