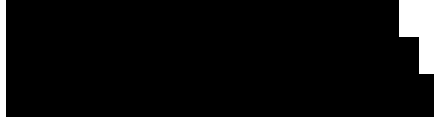


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-018068
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: February 4, 2016
County: Berrien (District 22)

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, an in-person hearing was held on February 4, 2016, in Benton Harbor, Michigan. Claimant personally appeared and testified. The Department was represented by Assistance Payment Supervisor [REDACTED]

PROCEDURAL HISTORY

The Department offered the following exhibit that was admitted into evidence:

1. Department's Exhibit A (pages 1-48) is a copy of Claimant's medical records from 2014 through 2015.

The Claimant offered the following exhibit that was admitted into evidence:

1. Claimant's Exhibits, pages 1-14, are a copy of additional medical records from 2014 through 2015.

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 competent, material, and substantial evidence on the whole record, finds as material fact:

- (1) On June 12, 2015, Claimant applied for SDA. (Depart Ex. A, p 1).

- (2) On September 17, 2015, the Medical Review Team (MRT) denied Claimant's SDA application, finding she was capable of performing other work. (Depart Ex. A, p 4).
- (3) On September 21, 2015, the Department sent Claimant notice that her SDA application was denied. (Depart Ex. A, pp 2-3).
- (4) On September 30, 2015, Claimant filed a request for a hearing to contest the Department's negative action.
- (5) Claimant reported she had herniated discs, bilateral knee replacements, neuropathy in bilateral hands, high blood pressure, Stage 4 kidney disease and depression.
- (6) On February 4, 2015, Claimant presented to her primary care physician with neuropathy and depression. She was assessed with hypertension, depression, iatrogenic hypothyroidism, substance abuse, bilateral wrist pain, obesity and carpal tunnel syndrome. The onset of neuropathy was a year ago and the severity level was severe. She experienced numbness in her left knee and lower back. She reported the neuropathy in both hands kept her awake at night. The physician noted the Claimant had a continuation of depressive symptoms and had not sought counseling. (Dept Ex. A, pp 37-41).
- (7) On August 20, 2015 at the request of the Department, Claimant underwent a psychological evaluation. The psychologist opined that the Claimant appeared to be a dependent individual whose affect was very flat. She demonstrated a reasonable short-term memory and her abstract thinking was adequate. Her common judgment was somewhat lacking. Her stream of thought was generally adequate. The psychologist concluded that the Claimant's overall profile suggested a depressed, overwhelmed individual who has a very low self-image who most likely uses drugs in order to self-medicate those issues. She was diagnosed with Major Depressive Disorder, Recurrent, Severe and Cocaine Use Disorder, Moderate Severe. (Dept Ex. A, pp 20-24; Claimant Ex. 9-13).
- (8) On August 22, 2015, Claimant underwent a medical evaluation on behalf of the Department. Claimant reported a history of hypertension. Claimant's blood pressure was known to be in the pre-hypertensive range. There did not appear to be evidence of end organ damage. Claimant also reported a history of discomfort involving several joints. She reported tenderness with movement in the knees and there was evidence of warmth in the left knee joint, possibly suggestive of some degree of active synovitis. She also reported sensory changes in the palmar aspect of the right hand and tenderness with movement in the wrists. Her grip strength was diminished bilaterally. She was able to pick up a coin, button clothing

and open doors with either hand. There did not appear to be evidence of ongoing nerve root impingement in her lower extremities. She had mild difficulty with squatting secondary to knee discomfort. She walked with a small stepped gait with a mild limp on the left. (Claimant Ex. 4-7).

- (9) Claimant is a [REDACTED] year old woman whose birthday is [REDACTED]. She is 5'4" tall and weighs 223 pounds. She has a high school education and last worked as a cashier in 2004.
- (10) Claimant was appealing the denial of Social Security disability at the time of the hearing.

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, 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.

"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].

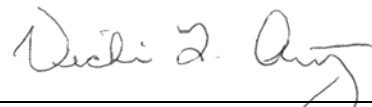
The test for receiving SDA is whether a person is unable, due to a medically determinable physical or mental impairment, to do any substantial gainful activity for a continuous period of not less than 90 days.

In this case, Claimant credibly testified she is attending Narcotics Anonymous and last used crack cocaine a week prior to the hearing. Claimant's treating physician noted that the use of crack cocaine was a possible contributor to Claimant's high blood pressure and depression. While it does appear from the evidence on the record that Claimant does have some physical and mental impairments, there is nothing in the record indicating that Claimant is or was unable to engage in substantial gainful work activity for at least 90 continuous days.

Therefore, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds Claimant not disabled for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.



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

Date Mailed: **2/18/2016**

VA/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:

