

**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.: 15-018808
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: December 15, 2015
County: CALHOUN

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

PROCEDURAL HISTORY

Following the Petitioner'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 December 15, 2015, from Lansing, Michigan. The Petitioner, [REDACTED] [REDACTED] appeared and testified. The Department was represented by Hearing Facilitator, [REDACTED] [REDACTED]. On December 17, 2015, the undersigned Administrative Law Judge issued an Interim Order extending the record for 30 days for additional information from the Department. That information was received on January 15, 2016, at which time the record closed.

Exhibits:

Department: A—March 31, 2015, Assistance Application
B—September 29, 2015, Notice of Case Action
C--September 25, 2015, Medical Review Team denial
D—Medical Packet
E---January 5, 2016, Mental Residual Functional Capacity Assessment

Petitioner: None

ISSUE

Whether the Department properly determined that the Petitioner 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 March 31, 2015, the Petitioner applied for SDA.
2. On September 25, 2015, the Medical Review Team denied the Petitioner's request.
3. On October 7, 2015, the Petitioner submitted to the Department a request for hearing.
4. The Petitioner is [REDACTED] years old.
6. The Petitioner completed education through a high school equivalency.
7. The Petitioner has no employment experience.
8. The Petitioner suffers from anxiety, depression, hepatitis C, hypertension and seizures.
9. The Petitioner's limitations have lasted for 12 months or more.
10. The Petitioner 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

MA is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department administers MA-P pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference 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.

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).

The Petitioner testified that his seizures are so severe that he blacks out and continues activities and talking to other people and does not even remember it. He could not testify to how often he has the seizures because he even has them in his sleep. The Petitioner identifies his impaired memory as one of his most disabling conditions.

The objective, psychiatric evidence in the record includes a Mental Residual Functional Capacity Assessment completed by the Department's psychiatrist, who concludes that the Petitioner is markedly limited in the following categories:

1. The ability to understand and remember detailed instructions.
2. The ability to carry out detailed instructions.
3. The ability to maintain attention and concentration for extended periods.
4. The ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances.
5. The ability to sustain an ordinary routine without supervision.
6. The ability to complete a normal workday and workweek without interruptions from psychologically-based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.
7. The ability to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness.
8. The ability to be aware of normal hazards and take appropriate precautions.
9. The ability to set realistic goals or make plans independently of others.

In this case, this Administrative Law Judge finds that the Petitioner may be considered presently disabled at the third step. The Petitioner appears to meet listing 12.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Petitioner's testimony and the medical documentation support the finding that the Petitioner meets the requirements of a listing.

Therefore, the Petitioner 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 Petitioner is medically disabled as of March, 2015.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the application dated March 31, 2015, if not done previously, to determine the Petitioner's non-medical eligibility. The Department shall inform the Petitioner of the determination in writing. A review of this case shall be set for January, 2016.



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

Date Mailed: **1/21/2016**

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:

