

**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.: 15-021337
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: January 26, 2016
County: Kalamazoo

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 January 26, 2016, from Lansing, Michigan. Claimant personally appeared and testified. The Department was represented by Hearing Facilitator [REDACTED].

PROCEDURAL HISTORY

The Department offered the following exhibits that were admitted into evidence:

1. Department's Exhibit A (pages 1-2) are the Hearing Summary and Request for Hearing.
2. Department's Exhibit B (pages 3-14) is the SDA application.
3. Department's Exhibit C (pages 15-16) is the Medical Determination Verification Checklist.
4. Department's Exhibit D (pages 17-57) are the Medical-Social Eligibility Certification, Work History Questionnaire, Medical – Social Questionnaire, Activities of Daily Living, and Medical Records from Western Michigan University School of Medicine and Bronson Hospital.
5. Department's Exhibit E (pages 58-77) is the Deferral Monitor, Psychological Evaluation, Medical Examination Report, and Medical-Social Eligibility Certification.
6. Department's Exhibit F (pages 78-81) is the Notice of Case Action.

The Claimant offered the following exhibits that were admitted into evidence:

1. Claimant's Exhibits 1-14, are a copy of additional medical records from Borgess Hospital and her therapist.

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

1. On April 22, 2015, Claimant applied for SDA. (Depart Ex. A, p 1).
2. On October 15, 2015, the Medical Review Team (MRT) denied Claimant's SDA application finding she was capable of performing other work. (Depart Ex. A, pp 70-77).
3. On October 16, 2015, the Department sent Claimant notice that her SDA application was denied. (Depart Ex. A, pp 78-81).
4. On November 5, 2015, Claimant filed a request for a hearing to contest the Department's negative action.
5. Claimant credibly testified that she had osteoporosis, osteoarthritis, fibromyalgia, asthma and depression.
6. On January 24, 2015, an MRI of Claimant's thoracic spine revealed an exaggeration of the normal kyphosis with mild, chronic wedging at T6 and T7. The MRI of the lumbar spine showed mild degenerative changes of the lower lumbar spine. (Dept Ex. pp 48, 50-54).
7. On March 25, 2015, Claimant followed up with her treating physician concerning her fibromyalgia. Claimant reported increasing back spasms, usually at night and in the low/mid-back region. At Claimant's request, she was referred back to physical therapy. (Dept Ex. A, pp 37-41).
8. On June 15, 2015, Claimant's treating physician completed a Medical Examination form at the request of the Department. Claimant was diagnosed with fibromyalgia, osteoarthritis and osteoporosis. The physician indicated that since Claimant's previous interview and examination, her pain had increased to 8/10 in intensity. The physician listed Claimant's physical limitations as occasionally lifting less than 25 pounds, standing and/or walking at least 2 hours and sitting less than 6 hours in an 8-hour day. The Claimant could use her hands and arms for

simple grasping, reaching, pushing, pulling or fine manipulation. She could use either foot or leg to operate foot or leg controls. The physician indicated the Claimant's pain is constant, varying in intensity, and present in the hips, lower back, thighs, shoulders, neck and feet. The physician noted Claimant's condition was stable and that her physical limitations were expected to last more than 90 days. (Dept Ex. pp 66-69).

9. On September 9, 2015, Claimant underwent a psychological evaluation on behalf of the Department. The psychologist noted that the Claimant appeared to have chronic depression and struggled with limits from the depression and her pain, which is likely magnified by her depression. She was diagnosed with Persistent Depressive Disorder, Moderate and Generalized Anxiety Disorder, with Avoidant and Dependent Personality Traits. The psychologist opined that Claimant's prognosis is guarded. She has long-term difficulties with depression which may be exacerbating her pain. She will have difficulties working an ordinary day at an average pace. She will likely need rest breaks. She should be able to carry out simple instructions but may have more difficulty with complex or detail instructions. Emotionally, she continues to have anxiety and depression despite treatment for this. (Dept Ex. A, pp 59-65).
10. Claimant is a [REDACTED] year old woman whose birthday is [REDACTED]. She is 4'10" tall and weighs 115 pounds. She has a high school education and last worked providing home health care in June, 2012.
11. 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.

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).

"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).

In this case, Claimant's treating physician's statements indicate Claimant is unable to work due to her multiple impairments resulting in disability expected to last more than 90 days. Further, an independent psychologist opined that Claimant's prognosis is guarded. Because Claimant's treating physician's opinion is well supported by medically acceptable clinical and laboratory diagnostic techniques, it has controlling weight. 20 CFR 404.1527(d)(2).

The credible testimony and medical records submitted at hearing verify Claimant was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Claimant's April 22, 2015 SDA application cannot be upheld.

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 disabled for purposes of the SDA benefit program.

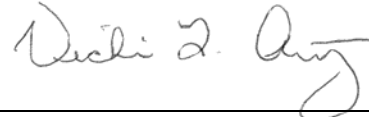
DECISION AND ORDER

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

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 Claimant's April 22, 2015 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 Claimant'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 Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.



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:

