

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

IN THE MATTER OF:



MAHS Reg. No.: 15-013830-REH-DEC
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: January 13, 2016
County: Washtenaw

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 13, 2016, from Lansing, Michigan. Claimant personally appeared and testified. The Department was represented by Assistance Payment Supervisor [REDACTED].

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

- (1) On December 16, 2014, Claimant applied for SDA.
- (2) On July 8, 2015, the Medical Review Team (MRT) denied Claimant's SDA application. (Dept Ex. A, pp 11-13).
- (3) On July 10, 2015, the Department sent Claimant notice that her application was denied.
- (4) On July 27, 2015, Claimant filed a hearing request to contest the Department's negative action.
- (5) Claimant has fibromyalgia, insomnia, gastroesophageal reflux disease, hyperlipidemia, pyelonephritis, obstructive sleep apnea, memory loss, tremors of nervous system, osteoarthritis, cervicgia, lumbago, paresthesias, spinal stenosis, type 2 diabetes, scoliosis, high blood

pressure, depression, bicipital tendonitis of right shoulder, acute cystitis and bilateral carpal tunnel syndrome.

- (6) On March 26, 2015, Claimant's primary care physician completed a Medical Examination Report. Claimant was diagnosed with spinal stenosis, osteoarthritis, fibromyalgia and diabetes mellitus. She had physical limitations expected to last more than 90 days. Claimant could occasionally lift less than 10 pounds; stand and/or walk less than 2 hours in an 8-hour day and sit less than 6 hours in an 8 hour day. Claimant 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. The physician found that Claimant has pain all over her body despite multiple medications. She is limited in sustained concentration due to the constant pain. The physician noted Claimant's condition was deteriorating. (Dept Ex. A, pp 39-41).
- (7) On September 15, 2015, Claimant's orthopedic surgeon submitted a letter indicating he had been treating Claimant since October, 2011. He noted he has treated her for multiple complaints including bilateral thumb trigger finger, bilateral knee pain and left elbow pain. He performed a bilateral thumb trigger release on Claimant on March 9, 2015. On August 3, 2015, he performed a right knee arthroscopy. The surgeon opined that as a result of Claimant's multiple issues, she is disabled from any gainful employment because she is unable to stand or sit for prolonged periods of time, unable to lift heavy objects, or bend, squat or crawl. (Dept Ex. A, pp 5-6).
- (8) On October 17, 2015 Claimant's lumbar spine MRI revealed multilevel degenerative changes including a right foraminal/far lateral disc herniation/protrusion at the L5-S1 level which appears similar to the previous exam on August 12, 2012 contributing to produce mass effect on the exiting right L5 nerve root and foraminal narrowing. (Claimant's Ex. 7-10).
- (9) On November 25, 2015, Claimant's orthopedic surgeon provided Claimant with a work notice indicating it would be very difficult for Claimant to obtain or maintain previous employment type of jobs based on her right knee degenerative joint disease, history of bilateral trigger thumb releases, left shoulder pain with possible rotator cuff tear and right carpal tunnel syndrome with possible surgery in the near future. (Claimant's Ex. 6).
- (10) On December 2, 2015, Claimant's treating physician submitted a letter indicating that due to Claimant's low back pain, osteoarthritis of the shoulder and carpal tunnel syndrome, Claimant cannot sit or stand for more than 20 minutes at a time and is unable to work any job due to her medical conditions. (Claimant's Ex. 5).

- (11) Claimant is a [REDACTED] year old woman born on [REDACTED].
- (12) Claimant is 5'5" tall and weighs 206 lbs.
- (13) Claimant has a two-year college education.
- (14) Claimant last worked in 2014.
- (15) Claimant was appealing the denial of Social Security disability at the time of the hearing.
- (16) Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.
- (17) Claimant's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical evidence, as well as the record as a whole, reflect an individual who is so impaired as to be incapable of engaging in any substantial gainful activity on a regular and continuing basis.

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 and surgeon submitted statements indicating Claimant is unable to work due to her multiple impairments resulting in disability. Because Claimant's surgeons' and 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 December 16, 2014 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.

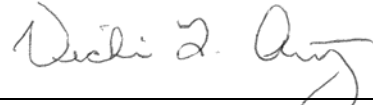
DECISION AND ORDER

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 December 16, 2014 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 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: **2/2/2016**

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:

