

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018371
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: January 21, 2016
County: Genesee

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 21, 2016, from Lansing, Michigan. Claimant personally appeared and testified. The Department was represented by Eligibility Specialist [REDACTED] [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 August 7, 2015, Claimant applied for SDA. (Dept Ex. A, pp A1-A14).
- (2) On September 11, 2015, the Medical Review Team (MRT) denied Claimant's SDA application finding she was capable of past relevant work. (Dept Ex. B, pp 1-6).
- (3) On September 11, 2015, the Department sent Claimant notice that her application was denied.
- (4) On October 8, 2015, Claimant filed a hearing request to contest the Department's negative action. (Dept Ex. p 4).
- (5) Claimant has a history of uncontrolled insulin-dependent diabetes, diabetic neuropathy, stage 3 kidney disease, osteoarthritis, carpal tunnel

syndrome, coronary disease, a previous heart attack, stent implanted, gastroparesis, glaucoma, migraines, anxiety and depression.

- (6) The Disability Determination completed by the Social Security Administration dated April 10, 2015, is also admitted into evidence and incorporated into this Decision. (Dept Ex. A, pp 13-51).
- (7) On December 15, 2015, Claimant's treating physician since March, 2013 completed a Medical Source Statement. Claimant was diagnosed with diabetes, gastroparesis, anxiety, diabetic neuropathy, migraines and osteoarthritis. Claimant had symptoms of nausea, vomiting, lower back pain, sensitivity to light and sound, pain and numbness in lower extremities. In an 8-hour day, the physician opined Claimant can sit for 8 hours, stand/walk for 2 hours, sit/stand and walk without interruption for 30 minutes, and is extremely limited in bending, squatting, kneeling, stooping, handling, gripping, turning, reaching, pushing, pulling, fingering and fine manipulation. The physician noted Claimant cannot occasionally or frequently lift 11-20 pounds. The physician also indicated Claimant's pain, fatigue or other symptoms markedly and substantially interfered with her ability to understand, remember and/or carry out instructions or procedures; to maintain attention, concentration, persistence and pace; to complete, on a sustained and continuous basis, a normal workday or workweek without interruption, or to perform at a consistent pace without an unreasonable number and length of rest periods. The physician also noted that Claimant's pain, fatigue or other symptoms will likely result in her being off task or away from a work station more than the allowed two 15 minute breaks and 30 minute lunch and will likely result in Claimant missing three or more days in a typical month. (Claimant's Ex. pp 1-2).
- (7) Claimant is a [REDACTED] woman born on [REDACTED].
- (8) Claimant is 5'2" tall and weighs 143 lbs.
- (9) Claimant has a high school education.
- (10) Claimant last worked in November, 2012.
- (11) Claimant was appealing the denial of Social Security disability at the time of the hearing.
- (12) Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.
- (13) 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).

Claimant credibly testified that she is a "brittle diabetic." She explained that her diabetes was uncontrolled and she was insulin dependent. She also had a heart attack and a stent implanted in February, 2013. In addition, Claimant reported she has stage 3 kidney disease and requires regular quarterly checkups to monitor her potassium levels. She has carpal tunnel disease in her left hand, causing pain, tingling and numbness. Due to her gastroparesis, Claimant cannot eat a lot, and must lie down after eating so she will not vomit. She has neuropathy in her feet and hands. At night, she can hardly walk due to the pain and tingling in her feet. She noted that even while wearing eye glasses, her vision is still blurry due to the glaucoma. She stated the medication she is on for anxiety and depression helped.

According to her treating physician's Medical Source Statement, Claimant is markedly limited in her ability to understand, remember and carry out detailed instructions or procedures; maintain attention, concentration, persistence and pace; complete on a sustained and continuous basis, a normal workday or workweek without interruption, or to perform at a consistent pace without an unreasonable number and length of rest periods; to stay on task or at a workstation the required 7 of 8 hours and to work a typical month without three or more days off due to her pain, fatigue and other symptoms.

A review of the Disability Determination by the Social Security Administration indicates a consultative examination was partially relied on in finding Claimant was not disabled. This Administrative Law Judge finds the one time consultative examination is given a minimum of weight, especially when compared to the Medical Source Statement from Claimant's treating physician. (Dept Ex. A, p 15).

Based on the credible testimony and medical records submitted at hearing, this Administrative Law Judge finds Claimant was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Claimant's August 7, 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 August 7, 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: **2/2/2016**
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:

