

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018552
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: January 12, 2016
County: Mecosta

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 12, 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 May 1, 2015, Claimant applied for SDA.
- (2) On August 21, 2015, the Medical Review Team (MRT) denied Claimant's SDA application finding he was capable of performing past relevant work. (Depart Ex. A, pp 5-7).
- (3) On August 24, 2015, the Department sent Claimant notice that his SDA application was denied.
- (4) On October 2, 2015, Claimant filed a request for a hearing to contest the Department's negative action.

- (5) Claimant reported arthritis in bilateral hands, asthma, chronic bronchitis, ulcers, herniated discs and that he had recent surgery on his left knee which did not help.
- (6) On March 30, 2015, Claimant was taken off work by his primary care physician [REDACTED] beginning March 30, 2015 until April 27, 2015. (Claimant Ex. 28).
- (7) On April 9, 2015, Claimant was taken off work by [REDACTED] beginning April 9, 2015 until April 27, 2015. (Claimant Ex. 29).
- (8) On April 27, 2015, Claimant was taken off work by [REDACTED] beginning April 27, 2015 until May 14, 2015. (Claimant Ex. 30).
- (9) On June 15, 2015, Claimant was taken off work by [REDACTED] beginning April 27, 2015 until July 13, 2015. (Claimant Ex. 31).
- (10) On July 13, 2015, Claimant was taken off work by [REDACTED] beginning July 13, 2015 until July 20, 2015. (Claimant Ex. 32).
- (11) Claimant has been diagnosed with asthma, esophageal reflux, insomnia, lumbar herniated disc, hives, chronic bronchitis, arthritis, and an ulcer.
- (12) On May 6, 2015, Claimant was taken off work by [REDACTED] beginning May 6, 2015 until July 8, 2015. (Dept Ex. A, p 36).
- (13) On May 14, 2015, Claimant saw his primary care physician regarding a herniated lumbar disc. Claimant was instructed to discontinue Tylenol/codeine, begin hydrocodone/acetaminophen and was referred to neurosurgery regarding the herniated disc at L3-L4. (Dept Ex. A, pp 34-35).
- (14) On July 26, 2015, Claimant underwent a medical evaluation on behalf of the Department. Claimant was diagnosed with degenerative arthritis primarily in his lumbar spine, but stated Claimant had arthropathy in his knees and shoulders. On examination, the physician concluded that Claimant's left knee had the most significant arthritis and Claimant continued to have tenderness over the medial meniscus, but there were no findings of laxity. Claimant's shoulders appeared relatively stable. He did have some degeneration in the lumbar spine without radicular symptoms. His gait was well preserved and he did not need an assistive device. He was on pain management. He did not appear to be actively declining and avoidance of heavy repetitive work would be indicated. Of note, Claimant does have a history of asthma. His lung fields were clear on examination. He is on inhaler therapy and his asthma appears to be controlled. (Dept Ex. A, pp 48-52).

- (15) On August 27, 2015, Claimant's MRI showed an oblique inferiorly surfacing medial meniscal tear involving the body and posterior horn/body junction and extrusion of the medial meniscal body. The medial compartment also displayed osteoarthritis with high-grade chondrosis and limited full thickness cartilage fissuring at the lateral tibial plateau, likely posttraumatic deformity of the posterior lateral tibial plateau. (Claimant Ex. 16).
- (16) On September 17, 2015 Claimant was evaluated by the orthopedist. Claimant reported he has experienced a knee ache since an injury in 1999. He has had a cortisone injection without sustained relief. He ambulates without aide. Claimant reported back pain, joint pain, joint swelling and a gait problem. On examination, the impression was a torn medial meniscus with chondromalacia and early degenerative change in the left knee. Claimant was referred for a knee arthroscopy. (Claimant Ex. 8-9).
- (17) On September 30, 2015, Claimant underwent a knee arthroscopy. He was diagnosed with a torn medial meniscus, left knee; grade 3 chondromalacia medial femoral condyles and medial tibial plateau; grade 3 chondromalacia lateral tibial plateau; osteochondral loose joint body; intraarticular adhesions; and a partial tear of the popliteus tendon. (Claimant Ex. 10-13).
- (18) On October 15, 2015, Claimant saw his orthopedist for his first post-operative visit. Claimant was ambulating without aide. (Claimant Ex. 14).
- (19) On, November 25, 2015, Claimant saw his orthopedist for his second post-operative visit. Claimant reported an occasional snap and pop, but noted less discomfort. He ambulated partially weight bearing with crutches. (Claimant Ex. 15).
- (20) Claimant is a [REDACTED] year old man whose birthday is [REDACTED]
- (21) Claimant is 5'7" tall and weighs 200 lbs.
- (22) Claimant completed the ninth grade.
- (23) Claimant last worked in March, 2015 as a machinist.
- (24) 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.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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:

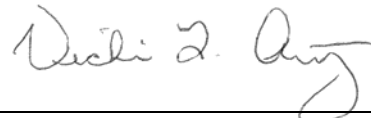
. . . the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. [SDA = 90 day duration].

In this case, while it does appear from the evidence of record that Claimant does have some physical 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 as required by statute.

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: **2/2/2016**

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:

