

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

IN THE MATTER OF:



MAHS Reg. No.: 15-020588
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: January 26, 2016
County: Iosco

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 and his grandfather both personally appeared and testified. The Department was represented by Assistance Payment Supervisor [REDACTED] [REDACTED].

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

1. On July 7, 2015, Claimant filed an application for SDA benefits alleging disability. (Dept Ex. A, pp 1-20).
2. On October 9, 2015, the Medical Review Team (MRT) denied Claimant's application for SDA indicating that Claimant's impairments will not prevent employment for 90 days or more. (Dept Ex. E, pp 36-58).
3. On October 22, 2015, the Department sent Claimant notice that his SDA application was denied. (Dept Ex. G, pp 428-431).
4. On October 29, 2015, Claimant filed a request for a hearing to contest the Department's negative action.

5. On August, 12, 2014, Claimant completed a Health Risk Assessment for his primary care physician, [REDACTED]. Claimant rated his health as good and reported exercising three to six days in the last seven days for at least 20 minutes. He also stated that in the last 30 days he rarely felt tense, anxious or depressed. (Dept Ex. F, pp 183-186).
6. On April 30, 2015, Claimant followed up with his primary care physician after being released from the Crisis Center. Claimant had been discharged from the practice after a marijuana test came back positive prior to the physician learning Claimant had a medical marijuana card. Claimant was in a drug detox program from April 7, 2015 through April 11, 2015. He was taking too much Norco. He could not sleep. The Crisis Center prescribed Claimant Xanax and Cymbalta. He had been using Xanax twice a day. (Dept Ex. F, pp 172-176).
7. On May 13, 2015, Claimant saw his primary care physician complaining of feeling sick and not sleeping or eating. Claimant reported using the Cymbalta and Xanax. He stated he had had a headache and took some of his Grandmother's Vicodin. He stated he was feeling well at the appointment and had been able to work and mow the lawn. Without the Vicodin, Claimant does not want to eat or do anything. Claimant was taking Vicodin in addition to the Norco when he ended up in the Crisis Center. He has chronic pain in jaw and nasal area. His general appearance was abnormal due to being underweight. His mood and affect were normal. The physician stated he had a discussion with Claimant regarding drug use and his taking the medication as prescribed. The physician indicated that if he discovered Claimant was running out early he would be discharged. (Dept Ex. F, pp 169-171).
8. On July 1, 2015 Claimant underwent a full assessment at Community Mental Health. Claimant appeared underweight. He was cooperative and had normal speech. His affect was appropriate. His mood was anxious and depressed. He had adequate abstracting ability and relevant thought processes. His productivity was spontaneous and he had no formal thought disorder. His intellectual functioning was average. He had a short term memory impairment and his concentration was moderately impaired. His social judgment was mildly impaired. Claimant met the severe persistent mental illness criteria. Claimant was diagnosed with major depressive disorder, generalized anxiety disorder, cannabis dependence in controlled environment (he has a medical marijuana card), and an unspecified feeding or eating disorder. Claimant was referred for outpatient individual/group therapy, a psychiatric evaluation and a medication review. (Claimant Ex. pp 4-13).
9. On August 6, 2015, Claimant underwent an independent psychiatric evaluation by [REDACTED]. Claimant was cooperative with decreased psychomotor tone and his mood was very depressed with a blunted affect. The psychiatrist opined Claimant "seems to be dealing with major depressive disorder without

psychotic features and also anxiety disorder, he needs ongoing medication management and psychotherapy.” (Claimant Ex. pp 1-3).

10. On August 20, 2015, an MRI of Claimant’s brain was normal with an incidental note of a cavum septum vergae of no clinical importance. (Dept Ex. F, p 152).
11. On September 23, 2015, Claimant had an office visit with his treating physician, [REDACTED]. The physician indicated he spent a lot of time with Claimant because of Claimant’s anxiety and pain issues. The physician stated he told Claimant he would give him back the Xanax and take away the Klonopin, but he needed to not keep stopping the medications his psychiatrist gave him. The physician wanted to prescribe Claimant Zyprexa, but Claimant refused. Claimant also requested more Tylenol #4, which he ran out of two weeks early. The physician noted she had prescribed Claimant #115 Xanax pills on September 3, 2015 and told Claimant then that she was not going to continue to give him that much and that it was just a one-time prescription, then back to #100 and that she would not refill the prescription early. The physician stated Claimant begged her for more Xanax and the physician had to reiterate that she would not prescribe Claimant anymore Xanax until October 1, 2015. The physician stated Claimant followed her out of the room begging her for more Xanax and the physician again told Claimant “no.” (Dept Ex. F, pp 153-154).
12. Claimant has a history of anxiety, depression, obsessive-compulsive disorder, eating disorder, neck pain, jaw problems, nasal problems, chronic facial pain, deviated nasal septum, ethmoid sinusitis, temporomandibular joint pain, insomnia, long-term current use of opiate analgesic, lumbago, narcotic addiction, otalgia and suicidal ideation.
13. Claimant is a [REDACTED] year old man whose birthday is [REDACTED]. Claimant is 5’6” tall and weighs 94 lbs. Claimant completed the ninth grade. Claimant last worked in 2014.

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.

Claimant's testimony was partially credible when compared to his medical records and his drug seeking behavior with his current treating physician, Dr. Weaver.

Regarding Claimant's physical health, Claimant stated he could walk a mile, stand an hour, carry 20 pounds and sit all day. There is no evidence of a physical impairment that would prevent Claimant from performing at least light duties.

Regarding Claimant's mental health, Claimant testified he was unable to work due to an eating disorder, panic attacks, self-hatred and social anxiety. However, the medical records do not support Claimant's statement of an inability to work.

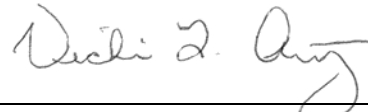
The objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least light duties. Therefore, the Administrative Law Judge finds that Claimant failed to provide the necessary objective medical evidence to establish that he is mentally or physically incapable of doing basic work activities. Moreover, there is no evidence that Claimant has a severe impairment that meets or equals a listed impairment found at 20 CFR, Part 404, Subpart P, Appendix 1

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 decision is **AFFIRMED**.

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Mailed: **2/3/2016**

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:

