



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 2, 2016
MAHS Docket No.: 16-000273
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

PROCEDURAL HISTORY

Following the Petitioner'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, an in-person hearing was held on February 24, 2016, from Standish, Michigan. The Petitioner, [REDACTED] appeared and testified with her husband, [REDACTED] and her witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by Eligibility Specialist, [REDACTED].

Exhibits

Petitioner: none.

Department: A—Medical Packet.
B--- December 22, 2015, Notice of Case Action.

ISSUE

Whether the Department properly determined that the Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On October 7, 2015, the Petitioner applied for SDA.

2. On December 19, 2015, the Medical Review Team denied the Petitioner's request.
3. On January 8, 2016, the Petitioner submitted to the Department a request for hearing.
4. The Petitioner is [REDACTED].
5. The Petitioner completed education through 10th grade and was in special education for a learning disability in math and reading. The Petitioner cannot read and write and cannot do basic math.
6. The Petitioner has employment experience and last worked 2013 as a stock person and cashier.
7. The Petitioner's limitations have lasted for 12 months or more.
8. The Petitioner suffers from a learning disability, memory loss, herniated discs, ADHD and depression.
9. The Petitioner has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and squatting. The Petitioner uses a walking stick to assist with ambulation.
10. The Petitioner has significant limitations on carrying out and remembering simple instructions; comprehension; persistence and pace.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

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 exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income 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.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA. Under SSI, disability is defined as:

...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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

In this case, the objectives, medical evidence in the record includes a MRI of the lumbar spine dated July 15, 2014. This MRI was after the Petitioner's lumbar surgery on July 6, 2014. Even post-surgery, there remained a herniated disc at the level of L5-S1 centrally, inferiorly and along the lateral recess bilaterally with slight improvement in the right lateral recess. There was still at least moderate impingement on the thecal sac at the level of L5-S1 from the herniated disc material. There was also still significant impingement on the descending left S1 nerve root from the herniated disc material at L5-S1.

The objective, medical evidence in the record also include an October 27, 2015 MRI of the lumbar spine. That MRI indicated that there is a circumferential disc bulge with central disc protrusion causing deformity of the thecal sac at L4-L5 level. At L5-S1 level there is a circumferential disc bulge with the superimposed large central to paracentral disc extrusions, facet degenerative changes and ligamentum flavum thickening causing bilateral lateral recess narrowing with mass effect on right S1 nerve root with posterior displacement of it. Disc extrusion is also abutting the left S1 nerve root. The impression was circumferential disc bulge with superimposed central to paracentral moderate to large disc extrusion at L5-S1 causing bilateral lateral recess space narrowing with mass effect on the right S1 nerve root and abutting the left S1 nerve root. Also, the impression was circumferential disc bulge with superimposed central disc protrusion causing deformity of the anterior aspect of the thecal sac.

In this case, this Administrative Law Judge finds that the Petitioner may be considered presently disabled at the third step. The Petitioner appears to meet listing 1.04 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Petitioner's testimony and the medical documentation support the finding that the Petitioner meets the requirements of a listing.

Therefore, the Petitioner is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Petitioner is medically disabled as of October, 2015.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application dated October 7, 2015, if not done previously, to determine the Petitioner's non-medical eligibility. The Department shall inform the Petitioner of the determination in writing. A review of this case shall be set for February, 2017.



SH/nr

Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]