



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 18, 2016
MAHS Docket No.: 16-001653

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

HEARING DECISION

Following 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, a telephone hearing was held on March 15, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [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 competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 18, 2015, Petitioner applied for SDA.
2. On January 19, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. (Dept Exh. A, pp 9-15).
3. On February 4, 2016, the Department sent Petitioner notice that his SDA application was denied. (Dept Exh. A, pp 5-8).
4. On February 10, 2016, Petitioner filed a hearing request to contest the Department's negative action.

5. Petitioner has a history of bipolar disorder, depression, spondylosis, spinal stenosis, triple bypass, coronary artery disease, and hypertension.
6. On November 18, 2015, the MRI of Petitioner's thoracic spine without contrast revealed degenerative disc disease with facet arthropathy greatest at L3-L4 and L4-L5 where at least moderate central and lateral canal stenosis exists. The MRI of Petitioner's lumbar spine without contrast showed a broad based disc bulge disc bulge and small central to left paracentral disc protrusion at the T7-T8 and T11-T12 levels which compresses the ventral thecal sac and mildly indents the ventral spinal cord. There was also mild thoracic spondylosis. (Petitioner's Exh. pp 2-5).
7. On October 21, 2015, Petitioner established care with [REDACTED]. Petitioner complained of back and hip pain. He reported his right hip would give out, which caused him to fall in the shower. Petitioner also reported balance problems and constant pain in the right hip, preventing him from sleeping. The lumbar/lumbosacral spine showed abnormalities. The hips also showed abnormalities and the hip motion was abnormal. Petitioner was prescribed a shower chair. (Dept Exh. A, pp 155-159).
8. Petitioner is a [REDACTED]-year-old man born on [REDACTED]. He is [REDACTED] and weighs [REDACTED] pounds. He has a high school equivalent education. He last worked as a carpenter/handyman for over 25 years in October, 2010.
9. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
10. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.
11. Petitioner'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 Health and 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, the MRI's support Petitioner's credible testimony that he is in constant pain. The MRI's revealed degenerative disc disease with facet arthropathy greatest at L3-L4 and L4-L5 where at least moderate central and lateral canal stenosis exists. The MRI of Petitioner's lumbar spine without contrast showed a broad based disc bulge disc bulge and small central to left paracentral disc protrusion at the T7-T8 and T11-T12 levels which compresses the ventral thecal sac and mildly indents the ventral spinal cord. There was also mild thoracic spondylosis.

The credible testimony of Petitioner and the Eligibility Specialist, in addition to the medical records submitted at hearing verify Petitioner was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Petitioner's September 18, 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 Petitioner disabled for purposes of the SDA benefit program.

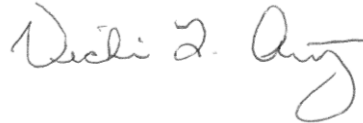
DECISION AND ORDER

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 Petitioner's September 18, 2015, application, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in March, 2017, unless his Social Security Administration disability status is approved by that time.

- 3. The Department shall obtain updated medical evidence from Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding his continued treatment, progress and prognosis at review.



VLA/db

Vicki Armstrong
 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



Petitioner

