



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] MAHS Docket No.: 16-001879
[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 23, 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 the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On September 22, 2015, Petitioner applied for SDA.
2. On February 5, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application looking only at Petitioner's diagnosis for osteoarthritis and affective disorder. (Dept Exh. A, pp 5-11).
3. On February 16, 2016, the Department sent Petitioner notice that her application was denied. (Dept Exh. A, pp 790-793).
4. On February 18, 2016, Petitioner filed a hearing request to contest the Department's negative action. (Dept Exh. A, pp 3-4).

5. On August 25, 2015, Petitioner followed up with her primary care physician regarding chronic knee pain, psoriasis, joint pain and diabetes. The physician noted that while her skin psoriasis had improved, it still covered her right upper extremity and the right side of her face. Her diabetes was well controlled. She required a wheeled walker. Diagnoses included asthma, benign essential hypertension, bright red blood per rectum, cervical lymph nodes enlarged, congestive heart failure, constipation, dehydration, dyslipidemia, esophageal reflux disease, shortness of breath, hyperlipidemia, hypertension, hypotension, hypothyroidism, microalbuminuria, neurogenic ulcer, obesity, psoriasis, psoriatic arthritis, right-sided heart failure, type 2 diabetes, neuropathy, urinary frequency, urinary tract infection, vitamin D deficiency and weight gain. (Dept. Exh. A, pp 578-584).
6. On October 1, 2015, Petitioner had her initial visit with her rheumatologist complaining of psoriatic arthritis. She had scaly patches over 85% of her body and right hip pain. Ultrasounds were ordered. (Dept. Exh. A, pp 760-763).
7. On October 15, 2015, the ultrasound report indicated Petitioner was diagnosed with bilateral primary osteoarthritis of knee, adhesive capsulitis of the right and left shoulders, and rheumatoid arthritis. (Dept. Exh. A, pp 757-759).
8. On January 26, 2016, Petitioner was referred to [REDACTED] [REDACTED] for a State of Michigan Disability Determination. Petitioner stated that when she stands up she becomes light headed and passes out. She also has diabetes and diabetic neuropathy. Her legs were swollen because she has right sided heart failure. The psychologist observed Petitioner walked slowly using a rolling walker. Petitioner presented with an intact reality and lowered self-esteem. She did not appear to exaggerate or minimize symptoms. Her affect was restricted. Her mood appeared depressed. The psychologist indicated that petitioner appeared able to understand, remember and complete simple and repetitive tasks. The psychologist indicated that Petitioner may be able to complete complex tasks at a decreased rate of pace due to fatigue and decrease in concentration supported by depression. Socially, she may appear more withdrawn. Petitioner was diagnosed with Adjustment Disorder with Depressed Mood. Her prognosis was guarded due to her chronic health problems. (Dept. Exh. A, pp 776-779).
9. Petitioner is a [REDACTED] year-old woman born on [REDACTED]. She is 5'3" and weighs 244 pounds. She has a high school education. She last worked as a sales clerk in July, 2011.
10. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
11. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

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 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 Department of Human Services) 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.

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].

The test for receiving SDA is whether a person is unable, due to a medically determinable physical or mental impairment, to do any substantial gainful activity for a continuous period of not less than 90 days.

In this case, Petitioner credibly testified that she has been using a walker since April, 2015. The medical evidence presented described it as a wheeled walker. Petitioner explained that she is unable to stand without the aid of her walker. She also said that she is unable to sit for any length of time because her legs go numb due to her diabetic neuropathy. Petitioner testified that she had been to the emergency department two days prior to this hearing due to low sugar. She also suffers from edema due to her right sided heart failure and is constant pain from her rheumatoid and psoriatic arthritis.

Petitioner was diagnosed with Adjustment Disorder with Depressed Mood. The examining psychologist opined that Petitioner's prognosis was guarded due to her chronic health conditions. The Department representative credibly testified that Petitioner had visible psoriasis all over her body and was using a walker.

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.

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**.

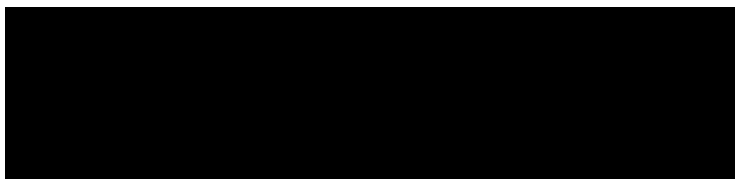
THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. The Department shall process Petitioner's September 22, 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 Petitioner's medical condition for improvement in April, 2017, unless her 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 her continued treatment, progress and prognosis at review.

VLA/db



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



[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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