



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: April 7, 2016
MAHS Docket No.: 16-001914

[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 Hearing Facilitator [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. The Department submitted Exhibit A, pages 1-23 and Exhibit B, pages 1-209 into evidence. (Dept. Exh. A, pp 1-23; Exh. B, pp 1-209).
2. On August 10, 2015, Petitioner applied for SDA. (Dept. Exh. A, pp 1-23).
3. On December 29, 2015, the Medical Review Team (MRT) denied Petitioner's SDA application finding she was capable of performing other work. (Dept. Exh. B, pp 1-7).
4. On January 20, 2016, the Department sent Petitioner notice that her SDA application was denied.

5. During the hearing, Petitioner stated she had bipolar disorder, posttraumatic stress disorder, depression, fibromyalgia, scoliosis and insomnia.
6. On June 12, 2015, Petitioner saw [REDACTED] in [REDACTED] with concerns that she was losing her memory. Petitioner reported that her daughter told her that she had not recognized her daughter and questioned her about who she was. Petitioner stated she does not remember the episode. Petitioner also stated that her daughter told her that she was drowsy all that day. The physician noted that Petitioner was not cachectic. She was well-appearing, well developed, well nourished, and in no acute distress. She appeared tired. She had multiple skin lesions on both arms. Petitioner was assessed with nocturia and memory lapses or loss. A patient health questionnaire PHQ-2 screening tool was completed and the findings were negative. (Dept. Exh. B, pp 78-81).
7. On July 30, 2015, Petitioner followed up with her rheumatologist regarding her fibromyalgia. Petitioner complained of aches and pains all over. Petitioner was pleasant and in no acute distress. She was assessed with unspecified myalgia and myositis and started on Lyrica and told to continue cyclobenzaprine. (Dept. Exh. B, pp 84-85).
8. On August 8, 2015, Petitioner presented to the emergency department complaining of abdominal cramps. She had diarrhea, emesis, abdominal pain, nausea and vaginal discharge. Labs were negative. (Dept. Exh. B, pp 45-56).
9. On September 3, 2015, presented to the emergency department complaining of low back pain radiating to the legs. Petitioner stated she just moved back from [REDACTED] and ran out of pain medication. She related the pain to an automobile accident 6 years ago. Petitioner stated she had been on Percocet and Flexeril in the past for her back pain, but ran out a couple of days ago. Petitioner reported smoking cigarettes and drinking alcohol. She denied using illicit drugs. Petitioner was in mild distress secondary to pain. She had diffuse tenderness in the lumbar area and bilateral gluteal muscle tenderness. She had pain with straight leg raise. She was able to ambulate around the room and get in and out of bed with mild discomfort. She requested a pain shot and a prescription for medications. Petitioner was given a shot of IM Dilaudid and a short course of Percocet, Flexeril and Motrin and she was encouraged to follow-up closely with a primary care physician. She was diagnosed with bilateral low back pain without sciatica. (Dept. Exh. B, pp 59-66).
10. On September 14, 2015, Petitioner established care at [REDACTED]. She reported a history of seizures after a motor vehicle accident more than 5 years ago. She stated she also had some memory loss and saw a neurologist in [REDACTED]. She reported she had had migraines since the motor vehicle accident. Petitioner had a history of bipolar disorder, fibromyalgia and seasonal allergies. Petitioner indicated she drinks alcohol, smokes cigarettes and uses marijuana daily. Petitioner reported fatigue, restlessness, nasal drainage, change in appetite, difficulty initiating sleep, headache, memory impairment, seizures, difficulty

concentrating, feeling down, depressed or hopeless, feelings of guilt, and little interest or pleasure in doing things. Petitioner was referred to a neurologist for the seizures. (Dept. Exh. B, pp 159-164).

11. On September 25, 2015, Petitioner saw her primary care physician for back pain. She stated there was no injury. She stated she was on both Norco and Percocet when she was in [REDACTED] and has been on Lyrica for a few months. She had positive symptoms for anxiety, depression and back pain. (Dept Exh. B, pp 67-71).
12. On November 20, 2015, Petitioner underwent an adult mental status examination on behalf of the [REDACTED]. Petitioner alleged disability due to bipolar disorder, memory loss, traumatic stress disorder, anxiety attacks, depression, mood swings, mania, scoliosis, GERD, migraine headaches, fibromyalgia, insomnia and vision/knee problems. Petitioner stated she had difficulty being around others, getting along with people and pain. Petitioner reported she smoked cigarettes and had a medical certificate for marijuana which she ingests. She admitted to heavy drinking with loss of control when the children were not in her home. She also reported blackouts. Petitioner walked normally and did not exhibit any pain-related verbal behaviors. Petitioner was diagnosed with Unspecified Bipolar and Related Disorder; Panic Disorder; Alcohol Use Disorder, Cannabis Use Disorder and Tobacco Use Disorder. Prognosis: Petitioner has been out of the workforce for over five years and complained of a number of physical and emotional issues. She had back problems and fibromyalgia which limit her ability to engage in physical exertion. She has a mood issue that leads to friction with others. She has anxiety symptoms stemming from a trauma background. (Dept. Exh. A, pp 38-42).

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.

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].

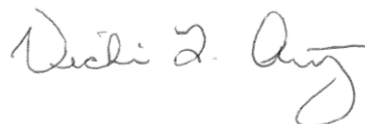
[As Judge] We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled. 20 CFR 416.927(e).

At hearing, Petitioner listed her disabilities as bipolar disorder, posttraumatic stress disorder, depression, fibromyalgia, scoliosis and insomnia. There is nothing in the evidence substantiating a diagnosis of scoliosis. While there is evidence in the record that Petitioner is being treated for bipolar disorder, posttraumatic stress disorder, depression, fibromyalgia, and insomnia, there is nothing in the record indicating that Petitioner is or was unable to engage in substantial gainful work activity for at least 90 continuous days.

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 Petitioner not disabled for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.



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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]

[REDACTED]

[REDACTED]
[REDACTED] [REDACTED]