RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[redacted]

Date Mailed: April 25, 2016
MAHS Docket No.: 16-002443
[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 April 19, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Family Independence Manager [redacted] and Assistance Payment Worker [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 November 3, 2015, Petitioner applied for SDA.

2. On February 2, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. (Dept. Exh. A, pp 15-16).

3. On February 12, 2016, the Department sent Petitioner notice that his application was denied. (Dept. Exh. A, pp 6-9).

4. On February 26, 2016, Petitioner filed a hearing request to contest the Department's negative action. (Dept. Exh. A, pp 2-3).

5. On August 23, 2013, Petitioner presented to the emergency department with left lower extremity pain. He had a past medical history of coronary artery disease status post stents placed x2. A lower extremity ultrasound showed evidence of a deep vein thrombosis in the left popliteal and left posterior tibial veins with remaining venous system being compressible. Chest x-rays showed stable chronic granulomatous disease. The EKG showed sinus bradycardia rate of 53, poor R-wave progression and septal T wave changes that were non-specific. (Dept. Exh. A, pp 105-107, 121-133).

6. On February 8, 2014, Petitioner presented to the emergency department with left lower extremity pain. Petitioner had a history of deep vein thrombosis. An ultrasound of the left lower extremity revealed a thrombus in the left popliteal vein and also in the mid and distal left femoral vein. The thrombus in the femoral vein was of indeterminant age. Petitioner was diagnosed with a deep vein thrombosis of the lower extremity. (Dept. Exh. A, pp 116-120).

7. On December 1, 2014, Petitioner presented to the emergency department with back pain. X-rays revealed straightening of the lumbar lordosis. Petitioner was diagnosed with low back pain and sciatica. (Dept. Exh. A, pp 108-111).

8. On June 17, 2015, Petitioner established a patient/doctor relationship with a new primary care physician. Petitioner reported he needed to be referred to a cardiologist because he had 2 stents and needed to be followed. He also reported being diagnosed with a blood clot in the left leg two years prior. Petitioner stated his leg still swelled periodically with prolonged standing and he would like to have another Doppler done. His chest x-ray was normal. The Venous Duplex of the left lower extremity showed no evidence of a deep vein thrombosis. (Dept. Exh. A, pp 142-52).

9. On July 29, 2015, Petitioner was evaluated by a cardiologist. Petitioner had a known history of coronary artery disease, previous chest pressure and heaviness, tightness sensation, palpitations, swollen legs and feet, lightheadedness, and a history of coronary artery disease with percutaneous intervention and stenting. On July 1, 2015, Petitioner had an echocardiogram and stress test. The stress test showed mild-to-moderate LVH, 42% ejection fraction, defect of mild-to-moderate severity involving the inferior wall suggestive of site of previous infarct. His echocardiogram was consistent with moderate-to-severe pulmonary hypertension. The cardiologist noted Petitioner was still having the same chest heaviness symptoms similar to that prior to his previous percutaneous intervention and stenting. (Dept. Exh. A, pp 171-173).

10. On August 7, 2015, Petitioner underwent a right and left heart catheterization, right and left native coronary angiogram, left ventriculogram, an abdominal aortogram with bilateral lower extremity arterial runoff and right femoral angiogram. Petitioner had a history of coronary artery disease and was status post percutaneous intervention to the right coronary artery 5 years prior, presenting with worsening shortness of breath and chest discomfort. Patent stents were noted in the

proximal to mid segments of the right coronary artery with mild diffuse in-stent restenosis. He had normal right heart chamber pressures. There was a mildly reduced left ventricular systolic function with a visually estimated LVEF of 45-50%. The abdominal aortogram was normal with bilateral lower extremity three vessel arterial runoff. (Dept. Exh. A, pp 167-170).

11. On October 19, 2015, Petitioner had a Pulmonary Function Test (PFT). The complete PFT was done with before and after bronchodilator as ordered. Acceptable and reproducible data were obtained. Petitioner was cooperative and gave a good effort. The results showed a mild airflow obstruction with positive bronchodilator response. Also, mild hyperinflation and moderate diffusion impairment. (Dept. Exh. A, pp 158-160).

12. On October 24, 2015, Petitioner underwent a medical evaluation on behalf of the Department. Petitioner's chief complaints were back problems, shortness of breath and heart problems. The physician found there did not appear to be any evidence of ongoing nerve root impingement, reflex diminution, motor weakness or sensory loss. Petitioner walked normally and did not have any difficulty with orthopedic maneuvers. His station was stable. The physician indicated the enclosed medical records revealed cardiac catheterization with patent stents in his right coronary artery and a mildly diminished ejection fraction. Previous exercise treadmill testing was suggestive of pulmonary hypertension. There was mild diminution of breath sounds. The physician indicated that the results of his latest PFT would be helpful. (Dept. Exh. A, pp 153-156).

13. On December 1, 2015, Petitioner underwent an initial mental assessment at the [redacted]. Petitioner stated he needed assistance in coping with life stressors. He reported angry outbursts, anxiety, appetite changes, crying spells, depressed mood, energy level changes, health worries, hopelessness, irritability, loneliness, financial problems, recurring thoughts, excessive worrying and an inability to forgive. Petitioner's father had committed suicide when Petitioner was 11 years old. Petitioner was diagnosed with a Generalized Anxiety Disorder. The examining clinician indicated Petitioner would benefit from cognitive behavioral and insight oriented individual therapy assisting him to process his feelings about past traumatic experiences and improve his coping abilities with his health problems. (Dept. Exh. A, pp 85-87).

14. Petitioner has a history of a prior heart attack, post stent placement x2,

15. Petitioner is a [redacted]-year-old man born on June 8, 1978. He is 5'8" and weighs 135 pounds. He has a high school equivalent education.

16. Petitioner was appealing the denial of Social Security disability at the time of this hearing.

17. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

18. Petitioner's complaints and allegations concerning his 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:
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> (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].
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> [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 his disabilities as a heart attack five years ago, blood clots, degenerative disc disease with a mild separation at L5-S1 and asthma. While there is evidence in the record that Petitioner is being treated for his depression, blood clots and previous heart attack, 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

DHHS

[redacted]

Petitioner

[redacted]