



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 21, 2016
MAHS Docket No.: 16-002711
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 18, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. His sister [REDACTED] appeared as his witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Medical Contact Worker.

ISSUE

Did the Department properly process Petitioner's August 4, 2015 application for State Disability Assistance (SDA) benefits?

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 August 4, 2015, Petitioner applied for SDA benefits on the basis of a disability.
2. On January 7, 2016, the Department's Disability Determination Services (DDS) determined that Petitioner was not disabled.
3. On January 7, 2016, the Department sent Petitioner a Notice of Case Action notifying him that his SDA application was denied on the basis that it had determined that he was not disabled (Exhibit B).

4. On January 15, 2016, the Department received Petitioner's written request for hearing disputing the Department's decision.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, the Department denied Petitioner's SDA application on the basis of DDS's conclusion that Petitioner was not disabled. DDS develops and reviews medical evidence for disability and/or blindness and certifies the client's medical eligibility for SDA assistance. BAM 815 (July 2015), p. 1. If a client's previous DDS and/or SSA medical determination was not approved, the client has to prove a new or worsening condition in order to start the medical determination process again. BAM 815, p. 7. The Department must request a DHS-49 for physical conditions and DHS-49-D/E for mental condition; clinical notes from the treating physician that the condition has worsened may also be used. BAM 815, p. 7.

In this case, Petitioner alleged both exertional and nonexertional limitations due to hypertension, muscle spasms, chronic pain, anxiety and depression. Although there was evidence of multiple applications filed with SSA prior to that filed in March 2015, Petitioner testified that he had a worsening of his condition at the time of his August 4, 2015 SDA application. However, there is no evidence that the Department requested a DHS-49 from Petitioner's primary care physician or a DHS-49-D/E from this mental health provider. The disability determination explanation completed by DDS in this case references Petitioner's medical records from Lincoln Behavioral, Petitioner's mental health provider, including a February 17, 2015 psychiatric evaluation and concludes that there was no worsening of Petitioner's mental residual functional capacity (RFC) from that in an October 2013 unfavorable SSA decision and adopts the finding of the SSA administrative law judge (Exhibit A, p. 9). However, no copies of the documents reviewed were included with the record on appeal. Further, there was no evidence that the Department requested any additional documents from the psychiatric provider for the period between April 2015, the date of the last record received, and August 2015, the date of the SDA application.

The DDS disability determination explanation also indicates that a consultative examination was required because the evidence presented was not sufficient to support a decision due to Petitioner's alleged exertional limitations, but Petitioner failed to attend consultative examinations scheduled by SSA (Exhibit A, pp. 8, 9). The medical record does not include any evidence that a consultative exam was scheduled or when it was scheduled. Petitioner acknowledged that he was scheduled to attend an exam by SSA but could not specify when the exam was scheduled. The Department's testimony that the SDA packet was forwarded to DDS on August 26, 2015 and the September 10, 2015 signature by the reviewing DDS worker that Petitioner failed to attend a consultative exam makes it unlikely that a consultative exam was scheduled by DDS in response to Petitioner's August 2015 application.

Based on the insufficient record presented on appeal, the Department has failed to establish that it complied with Department policy when it processed Petitioner's SDA application. Therefore, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SDA application.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING 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. Reinstate and reprocess Petitioner's August 3, 2015 SDA application;
2. If approved, supplement Petitioner for any SDA benefits he was eligible to receive, if any, from the date of application ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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

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