



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] Date Mailed: April 26, 2016
MAHS Docket No.: 16-002719
[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 April 19, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. Petitioner's grandfather and case manager from Community Mental Health also appeared and testified on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by Hearing Representative [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 August 10, 2015, Petitioner applied for SDA. (Dept. Exh. A).
2. On December 23, 2015, the Medical Review Team (MRT) denied Petitioner's SDA application indicating Petitioner was capable of other work. (Dept Exh. B, pp 8-75).
3. On February 1, 2016, the Department sent Petitioner notice that her application was denied. (Dept Exh. C, pp 76-79).
4. On February 26, 2016, Petitioner filed a hearing request to contest the Department's negative action. (Dept Exh. D, pp 2-3).

5. On April 20, 2015, Petitioner followed up with her primary care physician regarding her high blood pressure. The physician noted that Petitioner's depression had worsened. (Dept. Exh. E, pp 227-228).
6. On July 15, 2015, Petitioner was transported to the emergency department by the police after she tried to hang herself. Petitioner underwent an evaluation for Psychiatric Care. Petitioner had attempted to hang herself, then backed out and attempted to overdose on Xanax, at which point she called the crisis line. She was experiencing psychosocial stressors. She lost her job. Her Mom died two years ago and her Uncle died in April. She also had a history of cutting herself, the last incident █ months prior. At age 11, she choked herself in front of her class. At age █ she also attempted to hang herself. (Dept. Exh. E, pp 91-95; 152-172).
7. On July 15, 2015, Petitioner was admitted to the █. She was placed in a well-structured inpatient unit. She attended individual and group activities. Her Lexapro dosage was increased and Lamictal and Abilify were added. Petitioner voluntarily admitted herself after attempting suicide. Diagnosis: Axis I: Mood Disorder, type 2 depressed with manic, panic attacks; Axis III: hypertension, obesity; Axis IV: multiple deaths in the family, unemployed, limited support system; Axis V: GAF of 20. (Dept. Exh. E, pp 96-98).
8. On July 20, 2015, Petitioner was discharged from █. Final diagnosis: Axis I: Bipolar mood disorder type 2, depressed phase, admitted with suicidal ideations; Panic attacks; Axis II: Rule out borderline personality disorder; Axis III: Hypertension, obesity; Axis IV: Multiple deaths in the family, unemployment, support system; Axis V: GAF=45-50 at discharge. (Dept. Exh. E, pp 99-107).
9. On September 25, 2015, Petitioner's therapist at Community Health completed a psychological examination report on behalf of the Department. Diagnosis: Axis I: Major depressive disorder, recurrent, moderate; Panic disorder without agoraphobia; Social phobia; Axis II: Deferred; Axis III: Reports high blood pressure; Axis IV: Problems with social environment, educational problems, economic problems, occupational problems; Axis V: GAF 42. The therapist indicated that Petitioner would not be able to manage her own benefit funds. (Dept. Exh. E, pp 411-413).
10. On February 2, 2016, Petitioner followed up with her psychiatrist. Petitioner's symptomatology included mood swings along with self-harming thoughts and behavior such as cutting and recurring suicidal ideation. Petitioner had a history of mental problems as far back as early adolescence. She had at least two known psychiatric hospitalizations. The psychiatrist noted that homicidal and suicidal ideation continued to be a problem for Petitioner. The psychiatrist indicated that while Petitioner continued to be subject to mood swings, but she has had perceptible success in controlling her symptoms with the present combination of medication started in July, 2015. Mood and affect appeared appropriate. Thought processes were unremarkable. There were no perceptual distortions in the form of delusions or hallucinations. She was correctly oriented to time, place and person.

Association was unremarkable. Speech and judgment were unremarkable. Behavior and functioning level appeared unremarkable. (Petitioner's Exhibits 1-3).

11. Petitioner is a ■-year-old woman born on ■■■■■■■■■■. She is 5'6" and weighs 317 pounds. She has a high school education through special education for the emotionally impaired. She has no history of substantial gainful employment.
12. Petitioner has been diagnosed with anxiety, asthma, depression, panic disorder, social phobia, bipolar disorder, irritable bowel syndrome, diverticulosis, mild scoliosis, thoracic myofascial strain, morbid obesity and panic attacks.
13. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
14. 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 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.

Petitioner was diagnosed with anxiety, bipolar disorder, depression, panic disorder, and social phobia. She has had two psychiatric hospitalizations, the last in July, 2015. The accompanying case worker from Community Mental Health credibly testified that Petitioner was unable to work at this time and was still cutting herself.

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.

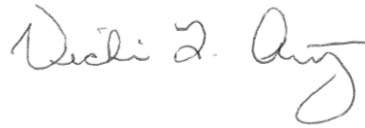
DECISION AND ORDER

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 August 10, 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

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]
[REDACTED]
[REDACTED] [REDACTED]

Petitioner

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