



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: June 20, 2016
MAHS Docket No.: 16-004522
Agency No.: [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 - 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 26, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. Petitioner submitted Exhibits 1-61 which were admitted.

The Department of Health and Human Services (Department), Respondent, was represented by Eligibility Specialist [REDACTED] testified as a witness on behalf of the Department. Department Exhibit A, (pages 1-659) was admitted.

The record was closed at the conclusion of the hearing.

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 17, 2015, Petitioner applied for SDA.
2. On March 16, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 2-9].

3. On March 23, 2016, the Department sent Petitioner notice that her application was denied.
4. On April 11, 2016, Petitioner filed a hearing request to contest the Department's negative action. [Dept. Exh. A, pp 2-3].
5. Petitioner has a history of fibromyalgia, epilepsy, migraines, posttraumatic stress disorder, a learning disability with impairment in reading and mathematics, borderline intellectual functioning, paresthesia, persistent depressive disorder and anxiety.
6. On November 8, 2012, Petitioner underwent a psychological evaluation on behalf of the Department. Testing revealed Petitioner was in the borderline range for intellectual functioning. Results of the mental status examination revealed abnormalities in general knowledge, memory and calculation tasks. The psychologist opined that Petitioner's ability to relate and interact with others, including coworkers and supervisors, was fair. Her ability to understand, recall and complete tasks and expectations was impaired. The psychologist noted that Petitioner may be able to perform simple tasks with no major limitations. Her ability to maintain concentration and to withstand the normal stressors associated with a workplace setting was fair. Diagnosis: Dysthymic disorder and a learning disorder. Prognosis was poor. [Dept. Exh. A, pp 32-35].
7. On August 10, 2015, Petitioner underwent a medical assessment for fibromyalgia. Petitioner was diagnosed with fibromyalgia in July, 2015. The examiner indicated that Petitioner's condition was expected to last more than 12 consecutive months and she would be absent more than four days a month due to her symptoms. The examiner opined Petitioner could walk 1 block, sit or stand for 30 minutes. Petitioner could sit for six hours in an 8-hour workday but would need to shift positions every 30 minutes and walk for 30 minutes. Petitioner could frequently lift less than 10 pounds, occasionally lift 10 pounds, rarely lift 20 and never lift 50. The examiner opined that as a result of Petitioner's learning disabilities she has difficulty with short-term memory, difficulty following simple directions, impaired social interaction, the ability to adjust to routine work changes, confusion, "fuzzy" thinking, distractibility, difficulty with word use and recall, difficulty with routine problem solving and disorientation to time and place. The examiner indicated that Petitioner cannot tolerate even "low stress" work. [Dept. Exh. A, pp 76-82].
8. On February 17, 2016, Petitioner underwent a psychological evaluation on behalf of the Department. Petitioner was applying for disability assistance because she had memory problems due to her learning disability, depression, fibromyalgia, seizures, weak arms, hands and legs, weak muscles and acid reflux. The psychologist noted that Petitioner presented as depressed with a sad affect during the evaluation. Petitioner had documents in her chart and also brought several additional documents to the evaluation. The documents confirmed the diagnoses she was claiming for disability assistance. Petitioner also identified she had pain, poor sleep, difficulty comprehending information and difficulty with some physical

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).

In this case, Petitioner has borderline intellectual functioning. In addition, she suffers from and is being treated for fibromyalgia, epilepsy, migraines, posttraumatic stress disorder, a learning disability with impairment in reading and mathematics, paresthesia, persistent depressive disorder and anxiety. The record evidence is duplicative, scattered and in most cases, incomplete. However, two independent psychologists, four years apart, opined that Petitioner's prognosis was poor.

The Department representative credibly testified as to Petitioner's impaired memory functioning.

As a result, Petitioner's complaints and allegations concerning her impairments and limitations, when considered in light of all the 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 credible testimony and medical records submitted at hearing verify Petitioner was legally disabled continuously for a period of 90 days or longer. As such, the Department's denial of SDA pursuant to Petitioner's September 17, 2015 SDA application cannot be upheld.

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

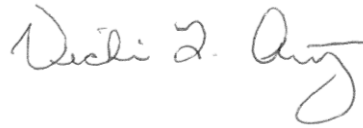
Accordingly, the Department's determination is REVERSED.

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 17, 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 June, 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.

It is SO ORDERED.



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

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