



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 14, 2016
MAHS Docket No.: 16-004523
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.

The Department of Health and Human Services (Department) was represented by Lead Eligibility Specialist [REDACTED] testified as a witness on behalf of the Department. Department Exhibit A, (pages 1-63) was admitted.

At Petitioner's request, the record was left open until June 3, 2016, to allow Petitioner to submit additional medical records. The record was closed on June 3, 2016, on receipt of Petitioner's exhibits.

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 June 18, 2015, Petitioner applied for SDA.
2. On March 21, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 3-9].

3. On March 22, 2016, the Department sent Petitioner notice that his application was denied. [Dept. Exh. A, p 1].
4. On April 4, 2016, Petitioner filed a hearing request to contest the Department's negative action. [Dept. Exh. A, p 2].
5. Petitioner has a history of post-traumatic stress disorder, multiple fractured ribs, a closed head injury, osteoarthritis, and cervical strain.
6. On January 14, 2014, Petitioner was involved in a motor vehicle accident. Petitioner was transported by ambulance to the emergency department and admitted to the hospital with fractured ribs and a pneumothorax. On respiratory examination, Petitioner was noted to be positive for pleurisy of the anterior aspect of the left upper chest and left breast with shortness of breath. [Petitioner Exh. 3-6, 14, 49].
7. On March 26, 2014, Petitioner followed up with his pulmonologist reference his fractured ribs and pleural effusion. On examination of the chest wall, there was no bruising or visible deformity. The chest sounded clear to auscultation. The pulmonologist found that Petitioner could return to work on April 21, 2014 but opined that Petitioner was going to experience mild residual discomfort and he should take over the counter analgesics such as ibuprofen for discomfort. [Petitioner Exh. 85-86].
8. On May 14, 2014, x-rays of Petitioner's chest revealed left lateral rib fractures. The pulmonologist found the two rib fractures from four months ago had either not united or had re-separated and it was causing Petitioner significant pain and intercostal neuropathy. The pulmonologist opined there was nothing that he could do medically, and Petitioner was referred to a thoracic surgeon to determine if Petitioner needed fixation with plate and screws. Petitioner was taken off work until cleared by the thoracic surgeon. [Petitioner Exh. 88-89, 98].
9. On November 24, 2015, Petitioner underwent a medical evaluation on behalf of the Department. The examining physician indicated Petitioner was involved in a head-on accident with a semi-truck. Petitioner sustained left sided rib fractures as well as burns on the left side of his abdomen, a pneumothorax to the left lung and left knee injury. The physician opined that Petitioner continued to have left sided chest wall pain and while an occult residual fracture or contusion was possible, it was unlikely; otherwise, the physician found it appeared to be either pleuritic or myofascial discomfort. Petitioner was not undergoing any effective treatment at the time of the exam. Petitioner had some post-traumatic arthropathy to the left knee and used a knee brace for pain control but it was not required. Of concern to Petitioner was the shaking in his left arm he had developed which was not present at the time of the exam. The physician opined that occult petit mal seizures were a possibility. The physician indicated a neuropsychological evaluation would be helpful. [Dept. Exh. A, pp 11-15].

10. Petitioner is a [REDACTED]-year-old man born on [REDACTED]. He is 5'10" and weighs 225 pounds. He has a high school education. He worked as a semi-truck driver for 33 ½ years. He last worked in December, 2014.
11. Petitioner was appealing the denial of Social Security disability at the time of the hearing.

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.

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).

Petitioner is diagnosed with a history of post-traumatic stress disorder, multiple fractured ribs, closed head injury, osteoarthritis, and cervical strain.

In this case, Petitioner was involved in a motor vehicle accident on January 14, 2014 in which he sustained fractured ribs and a pneumothorax. Petitioner was hospitalized as a result, and upon discharge, was not released back to work until April 21, 2014.

On May 14, 2014, Petitioner was again taken off work due to unhealed rib fractures or rib separation. There was no evidence of how long Petitioner was off work. However, Petitioner did testify he last worked in December, 2014, so at some point he was released back to work.

Petitioner applied for SDA on June 18, 2015. There was no medical evidence submitted between May, 2014 and November, 2015. Petitioner underwent a medical evaluation on November 24, 2015. The examining physician opined that Petitioner reported continued left sided chest wall pain. The physician indicated that while an occult

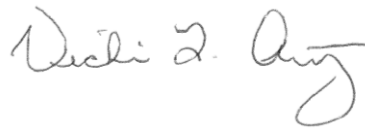
residual fracture or contusion was possible, it was unlikely and it appeared to be either pleuritic or myofascial discomfort. The physician also noted that Petitioner had some post-traumatic arthropathy to the left knee and used a knee brace for pain control which was not required. The physician stated that Petitioner was concerned about the shaking that had developed in his left arm since the accident. Shaking was not observed during the exam. The physician opined that occult petit mal seizures were a possibility.

There was no evidence in the record that Petitioner was being treated for his left sided chest wall pain or left arm shaking at the time of application. There was also 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**.



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]
[REDACTED] [REDACTED]