



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 17, 2016  
MAHS Docket No.: 16-004611  
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, represented by [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department) was represented by [REDACTED]. Assistance Payment Supervisor [REDACTED] and Eligibility Specialist [REDACTED] testified as witnesses on behalf of the Department. Department Exhibit A, (pages 1-200) was admitted.

At the request of Petitioner the record was left open until May 27, 2016 to allow Petitioner to submit additional medical records. Petitioner submitted Exhibits 1-73 which were admitted into evidence.

The record closed on May 27, 2016.

**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 October 13, 2015, Petitioner applied for SDA.

2. On February 26, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 21-27].
3. On March 3, 2016, the Department sent Petitioner notice that his application was denied. [Dept. Exh. A, pp 5-8].
4. On April 11, 2016, Petitioner filed a Request for Hearing to contest the Department's negative action. [Dept. Exh. A, p 3].
5. Petitioner has a history of a dislocated right hip, status post 3 hernia surgeries, chronic pain, alcoholism, chronic right inguinal pain, depression, osteoarthritis and arthritis.
6. On July 29, 2015, Petitioner consulted with a surgeon regarding chronic intermittent sharp right sided inguinal pain. He also complained of chronic pain in his right leg that shot down his medial leg intermittently. The surgeon noted Petitioner had a CT on July 22, 2015 at a ██████ facility and was told that the clips from the laparoscopic repair could be causing the pain. He was unable to get a referral to a pain specialist and requested something to help with the pain. He also asked for a note stating he was unable to work and a cane. The surgeon explained there was no need for surgical intervention because he did not have a right inguinal hernia and referred Petitioner back to his primary care physician for pain management and a cane. [Petitioner Exh. 50-55].
7. On September 2, 2015, a CT of Petitioner's abdomen and pelvis revealed stable 18mm fluid collection in the right inguinal region lateral to the inguinal canal with suggestion of a defect in the rectus fascia on the sagittal images. The finding raised the possibility of fat and fluid containing a direct right inguinal hernia. The differential diagnosis included a small seroma in the right inguinal region. Also seen were stable small fat-containing umbilical and left inguinal hernias. There were no new findings since the CT on October 20, 2011. There was also sigmoid diverticulosis without evidence of acute diverticulitis. The chest CT showed a stable subpleural noncalcified nodule in the right lower lobe typical for intrapulmonary lymph node that had also been stable since October 20, 2011. The lesion did not require further surveillance. [Petitioner Exh. 37-39].
8. On January 30, 2016, Petitioner underwent a medical evaluation on behalf of the Department. Petitioner reported hernias, hip and left knee pain. The physician observed Petitioner had what appeared to be a small reducible mass in the lower right quadrant. There was no evidence of abdomen abnormalities. A review of the previous CT of the abdomen and pelvis suggested a possible small hernia in the right lower groin region. The physician also evaluated Petitioner's knee and hip. The physician found no evidence of active synovitis. Petitioner walked normally, but had mild to moderate difficulty squatting secondary to lower extremity joint discomfort. He was able to ambulate without an assistive device. [Dept. Exh. A, pp 32-35].

9. The radiology report of Petitioner's left knee from January 30, 2016 found no acute traumatic or intrinsic osseous abnormalities. The joint space was well maintained without discernible spurring, ebumation or erosive change along opposing surfaces. A joint effusion or loose body was not identified and the surrounding soft tissues were intact. [Dept. Exh. A, p 36].
10. On May 26, 2016, Petitioner's primary care physician wrote a letter certifying that Petitioner had been under his care since August 31, 2015. The physician indicated that Petitioner's primary concerns were right inguinal pain from hernia surgeries, right hip pain, history of right hip dislocation and left knee pain. The physician stated that Petitioner's CT abdomen was abnormal. Petitioner told his physician that he could not be operated on. Based on the description of Petitioner's chronic pain, the physician opined that Petitioner cannot work formally. [Petitioner Exh. 73].
11. Petitioner is a [REDACTED] year-old man born on [REDACTED]. He is 5'10" and weighs 165 pounds. He has a high school education. He last worked in 2006 as a welder.
12. 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).

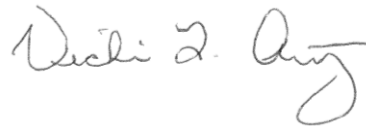
Petitioner has a history of a dislocated right hip, status post 3 hernia surgeries, chronic pain, alcoholism, chronic right inguinal pain, depression, osteoarthritis and arthritis. While there is evidence in the record that Petitioner is being treated for his chronic

abdominal pain, 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. The letter from Petitioner's physician was reviewed but was not supported by the evidence in the record.

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**.



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**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]

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