



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.: 16-004896
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 to 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 1-11 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 1-240) 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 October 19, 2015, Petitioner applied for SDA. [Dept. Exh. A, pp 224-240].
2. On March 21, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 6-31].

3. On February 22, 2016, the Department sent Petitioner notice that his application was denied. [Dept. Exh. A, pp 139-140].
4. On March 21, 2016, Petitioner filed a Request for Hearing to contest the Department's negative action. [Dept. Exh. A, pp 2-5].
5. On April 4, 2016, Petitioner submitted a request for hearing.
6. Petitioner has a history of peripheral vascular disease, cavernous brain tumor, sinus cavity tumors, emphysema, strokes, and seizures.
7. On June 20, 2010, an MRI of Petitioner's head revealed an abnormal appearance of the right cavernous sinus region present with enlargement and abnormal signal and enhancement. There was also an abnormal signal with enhancement seen in the region of the right-sided internal carotid artery in its visualized portion. The possible reasons for changes in the right cavernous signal included meningioma, lymphoma, a nerve sheath tumor and Tolosa-Hunt syndrome. The supra and infratentorial brain signal changes were probably related to a mild to moderate degree of chronic small vessel ischemia. [Petitioner Exhibits 11-12].
8. On December 20, 2014, Petitioner presented to the emergency department complaining of a sore throat and myalgias. Petitioner was being followed at [REDACTED] for a cavernous sinus tumor and occlusion of the carotid artery. Radiation therapy was recommended but had not been done. Petitioner stated that he had been trying to get into the Veterans Administration for the past few years. Petitioner thought he had had a seizure the day before. [Dept. Exh. A, pp 200-213].
9. The CT of Petitioner's chest from February 4, 2016 showed emphysema. [Petitioner Exhibit 3].
10. On February 16, 2016, an MRI of Petitioner's head found the signal abnormality of the region of the cavernous sinus was less prominent. There was mild to moderate mucosal thickening of the paranasal sinuses and mastoid air cells on the right were completely opacified. The extraaxial cerebrospinal fluid space on the right side posterior fossa was unchanged and could have been an arachnoid cyst. The white matter signal abnormality in the supra and infratentorial brain was redemonstrated and was slightly progressed in the interval since August 26, 2010. [Petitioner Exhibit 1].
11. On February 27, 2016, Petitioner underwent a medical evaluation on behalf of the Department. The physician noted the Petitioner appeared older than stated age. The examining physician indicated that Petitioner's seizures could be due to his sinus tumor. Petitioner did not have any focal neurological deficits during the exam. Petitioner reported that his doctors were waiting for gamma knife therapy to resect the lesion. The physician opined that monitoring and aggressive management was indicated. [Dept. Exh. A, pp 178-182].

12. Petitioner is a ■-year-old man born on ■. He is 5'8" and weighs 128 pounds. He has a high school equivalent education.
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.

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 peripheral vascular disease, cavernous brain tumor, sinus cavity tumors, emphysema, strokes, and seizures.

In this case, Petitioner's brain tumor was first diagnosed in June, 2010. At that time, radiation was recommended. The February 16, 2016 MRI revealed slightly progressed white matter signal abnormality in the supra and infratentorial brain.

Petitioner's complaints and allegations concerning his 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

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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