



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 28, 2016
MAHS Docket No.: 16-004898
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 June 2, 2016, from Lansing, Michigan. Petitioner and his Case Manager from [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department), was represented by Eligibility Specialist [REDACTED] [REDACTED] testified as a witness on behalf of the Department. Department Exhibit A, pages 1-458 was admitted.

The record 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 programs?

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 December 3, 2015, Petitioner applied for SDA. [Dept. Exh. A, pp 4-14].
2. On February 12, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 15-21].
3. On February 18, 2016, the Department sent Petitioner notice that his application was denied. [Dept. Exh. A, pp 457-458].

4. On April 19, 2016, Petitioner filed a hearing request to contest the Department's negative action. [Dept. Exh. A, p 3].
5. Petitioner is diagnosed with hypertension, diabetes, anxiety, major depressive disorder, bipolar affective disorder, personality disorder, a traumatic brain injury, dyspnea, auditory hallucinations, alcohol abuse, Adderall abuse and cannabis abuse disorder.
6. On May 15, 2015, Petitioner presented to the emergency department with complaints of anxiety, depression, difficulty sleeping, hopelessness, stress and suicidal ideation. The examining physician noted Petitioner presented as intoxicated and insistent that he was suicidal. He had tried to commit suicide in the past. He had alcoholism and was at high risk of a suicide attempt. The physician indicated that he would require sober evaluation in the morning for suicidality when sober and for possible admission. On May 16, 2015, Petitioner was discharged. [Dept. Exh. A, pp 385-412].
7. On May 18, 2015, Petitioner presented to [REDACTED] after a suicide attempt. Petitioner appeared older than his stated age and adequately groomed. During the interview, Petitioner was cooperative and his mood was quite depressed with a somewhat flat affect. He had suicidal thoughts and had tried to hurt himself before presenting to the hospital. His insight and judgment were noted to be quite limited. He was discharged on May 22, 2015 with a diagnosis of major depressive disorder, recurrent, moderate and alcohol and cannabis dependence. [Dept. Exh. A, pp 284-288].
8. On June 13, 2015, Petitioner presented to the [REDACTED] emergency department with suicidal thoughts. Petitioner reported that he was transported by his Case Manager after he told his outpatient treatment providers that he could not take it anymore and that his medications were not working and he was ready to "end it all." Petitioner appeared older than his stated age. On June 19, 2015, Petitioner was discharged. He still had some evidence of auditory hallucinations, with the two male voices saying things, but Petitioner stated that these were better than before and he was in control. Diagnosis: Bipolar affective disorder, depressed type; Anxiety disorder; Alcohol, Adderall and Cannabis abuse disorder; and Auditory hallucinations likely secondary to substance use and substance withdrawal. [Dept. Exh. A, pp 279-288].
9. On August 16, 2015, Petitioner was admitted to the adult [REDACTED] [REDACTED] having presented as a danger to self or others, evidenced by suicidal ideations and a plan and means to do imminent self-harm. The admission assessment/mental examination revealed Petitioner was depressed, anxious, hopeless, and helpless. Petitioner showed poor insight and judgment. Petitioner was monitored every 15 minutes around the clock for safety observation throughout the hospitalization. During the course of the hospital stay, Petitioner's behaviors with respect to agitation, irritability, impulsiveness and verbalization became more stabilized. Petitioner was discharged on

August 21, 2015 with a diagnosis of depression with suicidal ideation. [Dept. Exh. A, pp 320-363].

10. On December 24, 2015, Petitioner was admitted to the stress unit after checking himself in at the emergency department concerning his safety. Petitioner stated he felt hopeless and helpless, angry, anxious and nervous. Petitioner stated he tried to overdose on his medication by taking extra pain pills. A drug screen for opiates was negative, but positive for THC and alcohol. Petitioner attended groups, activities and classes on the unit and continued to improve. He was discharged on December 30, 2015 indicating he was willing to go home and take care of his affairs. The admitting physician noted that Petitioner had multiple inpatient hospitalizations in the same facility with similar presentation. Diagnosis: Major depressive disorder, recurrent, severe without psychotic features and polysubstance abuse. [Dept. Exh. A, pp 276-278].
11. On January 13, 2016, Petitioner met with his psychiatrist for his medication review. The psychiatrist noted that Petitioner was in ██████████ for depression and suicidal ideation. The psychiatrist indicated that Petitioner had numerous health risks, including hepatitis C, diabetes, GERD, and a traumatic head injury due to two car accidents. Petitioner reported having a serious back injury in 1990 and that he had had three back surgeries which had been unsuccessful. Petitioner reported being in constant pain. Diagnosis: Attention-deficit/hyperactivity disorder; major depressive disorder, recurrent, severe; alcohol and opioid dependence. [Dept. Exh. A, pp 67-78].
12. Petitioner is a █████-year-old man born on ██████████. He is 5'11" and weighs 200 pounds. He has a ninth grade education through special education. He last worked in 2009.
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.

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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 credibly testified that he is an insulin dependent diabetic. He stated he has had three back surgeries and six suicide attempts. He explained he is unable to drive due to his seizures that recur every 6-7 months. Petitioner reported he could walk 100 yards, stand for 30 minutes, sit for two hours but be in major pain, and pick up and carry no more than eight pounds. Petitioner testified that he has sores on his feet which were getting worse.

Petitioner's case worker from Hope Network credibly testified that Petitioner takes anti-seizure medication in addition to insulin five times a day. The case worker stated that Petitioner lost his prescription eye glasses and he has lost a lot of his vision. Petitioner also experiences significant double vision according to the case worker. The case worker indicated that Petitioner's blood sugar was over 600 and he was hospitalized for 7 days. The case worker explained that he helped Petitioner with everyday activities such as laying out his medications so he knows what to take and transporting Petitioner to doctor appointments.

Petitioner is diagnosed with hypertension, diabetes, anxiety, major depressive disorder, bipolar affective disorder, personality disorder, a traumatic brain injury, dyspnea, auditory hallucinations, alcohol abuse, Adderall abuse and cannabis abuse disorder.

Petitioner's complaints and allegations concerning his 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 credible testimony and medical records submitted at hearing verify Petitioner was legally disabled for at least ninety (90) days, especially in light of his five psychiatric admissions from May 2015 through December, 2015. As such, the Department's denial of SDA pursuant to Petitioner's December 3, 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.

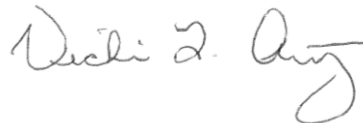
DECISION AND ORDER

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 OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process Petitioner's December 3, 2015 application, and shall award him all the benefits he may be entitled to receive, as long as [REDACTED] meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in July, 2017, unless his 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 his 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

[REDACTED]

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

[REDACTED]

[REDACTED]
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