



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR



Date Mailed: July 26, 2016  
MAHS Docket No.: 16-006111  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Susanne E. Harris

**HEARING DECISION**

Following the 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 14, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department of Health and Human Services (Department) was represented by Family Independence Manager, [REDACTED] [REDACTED]

After the hearing, the Administrative Law Judge did issue an Interim Order Extending the Record to afford the Department 15 days from the date of the hearing to submit the entire and complete medical packet that the Medical Review Team (MRT) considered when denying the Petitioner's application. The order also did afford the Petitioner 30 days from the date of the hearing to submit additional medical evidence, which was never received before July 15, 2016, at which time the record closed. The following exhibits were offered and admitted into evidence:

Department: A--April 6, 2016, Notice of Case Action.  
B--February 29, 2016, MRT denial.  
C--Medical Packet.  
D--remaining medical packet received on June 16, 2016.

Petitioner: none.

**ISSUE**

Whether the Department properly determined that the Petitioner was not disabled for 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 December 10, 2015, the Petitioner applied for SDA.
2. On February 29, 2016, the MRT denied the Petitioner's SDA application.
3. On April 6, 2016, the Department sent the Petitioner notice that her application was denied.
4. On April 26, 2016, the Petitioner filed a hearing request to contest the Department's negative action.
5. The Petitioner has a history of depression, anxiety, restless leg syndrome and right torn rotator cuff and torn tendons.
6. The Petitioner is a [REDACTED]-year-old woman born on [REDACTED]. She is 5'2" and weighs 160 pounds. She has a high school education. The Petitioner has sporadic employment history and has employment experience from factory packaging, to housekeeping to fast food work.
7. The Petitioner was appealing the denial of Social Security disability at the time of the hearing.
8. The Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.
9. The Petitioner's complaints and allegations concerning her impairments and limitations, when considered in light of all objective medical and psychiatric 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.

### **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 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).

The Petitioner has a history of depression, anxiety, restless leg syndrome and right torn rotator cuff and torn tendons. On August 13, 2014, the Petitioner was seen in the emergency department complaining of irritation in her right shoulder, pain around the joint rating up towards her neck and down her hand with some numbness and tingling in her hands. The Petitioner reported that she had been unloading trucks the day before. Progress Notes from October 14, 2015 indicate that an MRI showed a supraspinatus tear. The Petitioner had surgery on November 12, 2015. This right shoulder rotator cuff repair failed. The Petitioner had been more active with her arm that had been instructed and also had fallen down a flight of stairs and caught her arm on something. She therefore had a revision surgery on December 4, 2015, after parents reportedly came out.

Also included in the evidence is an objective, psychological report conducted by the Department's psychologists. The Petitioner was diagnosed with panic disorder with agoraphobia, chronic major depression, restless leg syndrome, acid reflux, high blood pressure, high cholesterol and right shoulder surgery. The Department's psychologist indicates that the Petitioner's primary issue with respect to future employment is her panic at agoraphobic tendencies. The Petitioner is limited with how much she leaves home and has much anxiety both leading up to any departure as well as while she is out. The Department's psychologist indicates that the Petitioner is anticipated to struggle a great deal with being able to acquire and sustain any kind of competitive employment without better symptom control.

The credible testimony and medical records submitted at hearing verify the Petitioner was legally disabled for ninety (90) days. As such, the Department's denial of SDA pursuant to Petitioner's December 10, 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, if any, finds the 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 10, 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 January, 2017, unless her Social Security Administration disability status is approved by that time.
3. The Department shall obtain updated medical evidence from the Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.



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Susanne E. Harris  
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

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]