



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: September 23, 2016
MAHS Docket No.: 16-010747

[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 September 1, 2016, from Lansing, Michigan. Petitioner personally appeared and testified. Petitioner submitted [REDACTED] exhibits which were admitted into evidence.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED]. [REDACTED] testified on behalf of the Department. Department exhibits, pages [REDACTED], were admitted into evidence. 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 February 25, 2016, Petitioner applied for SDA.
2. On June 15, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 18-24].
3. On June 28, 2016, the Department sent Petitioner notice that his application was denied. [Dept. Exh. A, pp 3-5].

4. On July 21, 2016, Petitioner filed a Request for Hearing to contest the Department's negative action. [Dept. Exh. A, p 2].
5. Petitioner has a history of chronic low back pain, degenerative disc disease, lumbar radiculopathy, sciatica, lumbar nerve root disorder, right ulnar neuritis, dyspnea, tachycardia, hypertension, seizures, memory loss, emphysema, chronic obstructive pulmonary disease (COPD), anxiety, and depression.
6. On November 9, 2015, Petitioner's MRI revealed an abnormal marrow signal seen throughout the spine and pelvis with a more focal area of abnormal increased T2 signal seen left hemisacrum, with the possibility of myelomatosis or other marrow replacement disorder. Also, a mild moderate-sized left-sided disc protrusion at the L4-L5 level extending into the neuroforamen on the left with nerve root compression was observed. Additionally, a small broad-based disc protrusion at the L5-S1 level and multilevel neuroforaminal stenosis was also found. [Dept. Exh. 34-35].
7. On February 3, 2016, Petitioner saw his primary care physician for dyspnea and pain. Petitioner was admitted to the hospital for dyspnea due to COPD exacerbation, and tachycardia. He presented with a history of chronic pain after falling 4 stories in 2000. He also had a history of degenerative disc disease, COPD, hypertension, tobacco dependence, seizure, marijuana use, tobacco and alcohol dependence. He had pain in his neck, shoulder, upper and lower back, hips and legs. He also had numbness and weakness in his right side both in his upper and lower extremities. The numbness, tingling and weakness on his left side was not new and had been constant since his fall in 2000. He was diagnosed with somatic dysfunction-head, neck, upper and lower extremities, ribs and diaphragm; COPD [REDACTED]rbation, constipation and anxiety/alcohol dependence. [Dept. Exh. 37-40].
8. Petitioner is a [REDACTED]-year-old man born on [REDACTED]. He is [REDACTED] and weighs [REDACTED] pounds. He has an eleventh grade education.
9. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
10. 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.

Petitioner has alleged physical disabling impairments due to a history of chronic low back pain, degenerative disc disease, lumbar radiculopathy, sciatica, lumbar nerve root disorder, right ulnar neuritis, dyspnea, tachycardia, hypertension, seizures, memory loss, emphysema, chronic obstructive pulmonary disease (COPD), anxiety, and depression.

Listing 1.00 (musculoskeletal system) was considered in light of the objective evidence. Based on Listing 1.04, Petitioner's impairments are severe, in combination, if not singly, (20 CFR 404.15.20 (c), 416.920(c)), in that Petitioner is significantly affected in his ability to perform basic work activities (20 CFR 404.1521(b) and 416.921(b)(1)).

Listing 1.04 requires a disorder of the spine such as a herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equine) or the spinal cord. With evidence of nerve root compression characterized by neural-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle spasm) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising tests (sitting and supine) and lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

Petitioner credibly testified that he requires a cane to ambulate. He stated he is in constant pain and in addition to his back problems, he has also been diagnosed with right wrist drop. He explained that he has had a splint on his right wrist for over three months, and the doctors have been unable to figure out what to do to fix it. Petitioner testified that he has lost over 30 pounds in the past year, because he has no appetite and he is averaging four hours of sleep a night due to the constant pain.

As indicated by Petitioner during his testimony, and supported by the medical evidence in the file, Petitioner is in constant pain due to the nerve root compression as evidenced by the MRI. Accordingly, this Administrative Law Judge finds Petitioner's impairments meet or equal Listing 1.04 and concludes Petitioner is disabled for purposes of the SDA program.

DECISION AND ORDER

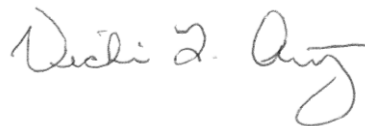
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds Petitioner disabled for purposes of the SDA benefit program.

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 THE ORDER WAS ISSUED:

1. The Department shall process Petitioner's February 24, 2016, SDA application, and shall award him all the benefits he may be entitled to receive, as long as he meets the remaining financial and non-financial eligibility factors.
2. The Department shall review Petitioner's medical condition for improvement in October, 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]
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