



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: October 10, 2016
MAHS Docket No.: 16-010922

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 September 13, 2016, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] AP Supervisor.

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. Petitioner applied for SDA on March 15, 2016.
2. The Medical Review Team denied the application on July 29, 2016.
3. Petitioner filed a request for hearing on August 8, 2016, regarding the SDA denial.
4. A telephone hearing was held on September 13, 2016.
5. Petitioner is 5' 6" tall and weighs 147 pounds having gained 10 pounds in the last year.

6. Petitioner is ■ years of age having turned ■ on ■
7. Petitioner's impairments have been medically diagnosed as arthritis, left hip replacement, degenerative joint disease.
8. Petitioner has the following symptoms: pain, fatigue, shortness of breath and joint swelling.
9. Petitioner completed high school.
10. Petitioner is able to read, write, and perform, basic math skills.
11. Petitioner is working part time as a greeter 15-20 hours per week earning ■ per hour. Petitioner began this job on July 20, 2016. Petitioner previously worked as a retail clerk.
12. Petitioner lives alone.
13. Petitioner testified that she cannot perform some household chores.
14. Petitioner was taking the following prescribed medications at the time of hearing:
 - a. Metoprolol
 - b. Premarin
 - c. Omeprazole
 - d. Simvastatin
 - e. Tramadol
 - f. Visteril
15. Petitioner testified to the following physical limitations:
 - i. Sitting: 120 minutes
 - ii. Standing: 30 minutes
 - iii. Walking: 1000 feet
 - iv. Bend/stoop: difficulty
 - v. Lifting: 5-10 lbs.
 - vi. Grip/grasp: no limitations

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.

RCA and SDA Only

Financial need exists if there is at least a \$10 deficit after income is budgeted. If there is no deficit, the group is ineligible for assistance. Certify denial or closure in Bridges for the benefit month unless the group meets the conditions for temporary ineligibility. BEM 518

PAYMENT STANDARD

The payment standard is the maximum benefit amount that can be received by the CG. Income is subtracted from the payment standard to determine the grant amount; see BEM 518. The grant amount is for shelter, heat, utilities, clothing, food and items for personal care. It is not to be used to purchase lottery tickets, alcohol or tobacco. It is also not to be used for gambling, illegal activities, massage parlors, spas, tattoo shops, bail-bond agencies, adult entertainment, cruise ships or other nonessential items. Determine the correct payment standard based on the program, certified group size, and living arrangement (SDA) or grantee status (FIP/RCA).

See Adjustment to Payment Standard in this item for groups containing a member who is serving an immunization penalty.

FIP/RCA payment standards are found in RFT 210. For SDA groups, use RFT 225 or RFT 235. BEM 515

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, disability is defined as:

...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.

Federal regulations require that the Department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Petitioner is working earning █████ per month and began working that job on July 20, 2016. This is greater than █████ per month payment standard, therefore the Petitioner is disqualified at this step in the evaluation. BEM 518, RFT 225 Petitioner would not have qualified for SDA on durational grounds as well because Petitioner’s condition improved within 90 days of the onset of the disability. Petitioner acknowledged at hearing that her condition improved following her hip replacement and completion of physical therapy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Petitioner is NOT medically disabled for the purposes on SDA.

Accordingly, the Department’s decision is hereby **AFFIRMED**.



Aaron McClintic
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

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