



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: May 10, 2016
MAHS Docket No.: 16-003002

[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 April 21, 2016, from Lansing, Michigan. Petitioner and the [REDACTED] case manager, [REDACTED], personally appeared and testified. Petitioner submitted Exhibits 1-5 which were admitted.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED] testified as a witness on behalf of the Department. Department Exhibit A, pages 1-173 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 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 June 3, 2015, Petitioner applied for SDA. (Dept. Exh. J).
2. On January 13, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. (Dept Exh. C).

3. On January 19, 2016, the Department sent Petitioner notice that her application was denied. (Dept Exh. B).
4. On February 29, 2016, Petitioner filed a hearing request to contest the Department's negative action.
5. Petitioner reported a history of arthritis, chronic back, neck and hip pain, fibromyalgia, headaches, asthma and a permanent yeast infection.
6. On June 5, 2015, Petitioner's therapist at [REDACTED] completed a psychological examination report on Petitioner's behalf. The therapist indicated Petitioner has severe depression and anxiety that presents in hoarding behavior, with a focus on fantasy and a skewed view of reality. Petitioner has been in treatment on and off much of her life. She has lost parental rights to her children related to these struggles. Petitioner's thought process tends to be tangential. She has a naïve aspect of the world around her and has difficulty considering all obstacles or possibilities. She has limited insight into stressors and prefers avoidance rather than resolution of the issues. Logic is limited. She was diagnosed with Post-traumatic Stress Disorder; Obsessive Compulsive Disorder; Axis II: None; Axis III: myalgia, myositis, asthma and morbid obesity; Axis V: GAF equals 45. (Dept. Exh. 162-164).
7. On June 19, 2015, Petitioner's primary care physician completed a Medical Examination Report on Petitioner's behalf. Petitioner was diagnosed with degenerative disc disease, cervical spine stenosis, and marked spinal stenosis at L3-L4 and L5-S1. The physician indicated Petitioner's condition was stable and her physical limitations were expected to last more than 90 days. Petitioner can occasionally lift 10 pounds, stand or walk less than 2 hours, and sit less than 6 hours in an 8-hour work day. (Dept. Exh. pp 165-167).
8. On December 23, 2015, Petitioner underwent a psychological evaluation on behalf of the Department. No additional materials were provided. Petitioner reported struggling with arthritis, chronic pain, asthma, occasional mild depression and anxiety. The psychologist noted Petitioner was extremely obese. The psychologist opined that Petitioner's ability to relate and interact with others, including coworkers and supervisors was good. She appeared to have no marked intellectual deficits. Her ability to maintain concentration was good. She appeared able to deal with normal workplace stressors. (Dept. Exh. E).
9. On January 12, 2016, Petitioner underwent a medical examination on behalf of the Department. Petitioner reported a diffuse arthropathy, asthma and fibromyalgia. The physician noted Petitioner had tenderness in the cervical and lumbar spine but found no trigger points during the examination. Petitioner was able to perform orthopedic maneuvers and walked with a guarded wide based gait. She appeared stable enough not to need an assistive device. Weight reduction, pain management and continued anti-inflammatories were indicated. The physician

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.

"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].

The test for receiving SDA is whether a person is unable, due to a medically determinable physical or mental impairment, to do any substantial gainful activity for a continuous period of not less than 90 days.

In this case, Petitioner credibly testified that she can walk a block, sit or stand for 5 minutes and carry 25 pounds. The medical evidence presented indicated Petitioner can occasionally lift 10 pounds, stand or walk less than 2 hours, and sit less than 6 hours in an 8-hour work day.

Petitioner's case worker from [REDACTED] credibly testified that she has been seeing Petitioner twice a week for the past year. The case worker stated she has seen Petitioner struggle with daily household chores and Petitioner's home is not taken care of. Petitioner's house is falling apart and she has bed bugs. The case worker also testified that Petitioner has more bad days than good days. The case worker opined that Petitioner cannot work due to the physical pain she experiences on a daily basis.

[REDACTED] [REDACTED] credibly testified that she agreed with [REDACTED] [REDACTED] assessment. [REDACTED] added that it was hard for Petitioner to function or meet deadlines.

Petitioner was diagnosed with lumbago, cervicalgia, limb pain, spinal stenosis of lumbar region, radiculitis, lumbar and sacral spondyloarthritis, severe facet arthropathy, numbness and tingling, muscle weakness, cervical spondyloarthritis, hip joint pain,

chronic pain, ear pain, eczema, dizziness, intertrigo, seasonal allergies, headache, fibromyalgia, abnormal vaginal bleeding, rash, depression, high cholesterol, elevated liver enzymes, asthma and chronic back pain. Petitioner's treating physician opined that Petitioner's physical limitations would last well over 90 days.

Petitioner's complaints and allegations concerning her 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 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.

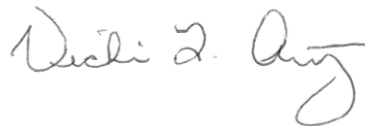
DECISION AND ORDER

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 THE ORDER WAS ISSUED:

1. The Department shall process Petitioner's June 3, 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 May, 2017, unless her 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 her continued treatment, progress and prognosis at review.

It is SO ORDERED.



VLA/db

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] [REDACTED]