



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 15, 2016
MAHS Docket No.: 16-004893

[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 May 26, 2016, from Lansing, Michigan. Petitioner and her friend, [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department), Respondent, was represented by Eligibility Specialist [REDACTED]. [REDACTED] testified as a witness on behalf of the Department. Department Exhibit A, (pages 1-965) was admitted.

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 October 23, 2015, Petitioner applied for SDA.
2. On March 15, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. (Dept. Exh. A, pp 953-959).
3. On March 17, 2016, the Department sent Petitioner notice that her application was denied. (Dept. Exh. A, pp 960-963).

4. On April 11, 2016, Petitioner filed a hearing request to contest the Department's negative action.
5. Petitioner has a history of arthritis, herniated discs, osteoporosis, fibromyalgia, degenerative disc disease, osteoarthritis, varicose veins, hyperlipidemia, goiter, anxiety, depression, high blood pressure, morbid obesity, edema, obstructive sleep apnea, chronic obstructive pulmonary disease, shortness of breath, a Baker's cyst in the left knee, palpitations, Hashimoto's disease, epidural lipomatosis at the lumbosacral level and mild congenital lumbar spinal canal stenosis.
6. On February 3, 2016, Petitioner was evaluated for bilateral meniscal tears, obesity, back pain and arthritis at the request of the Department. The examining physician noted that Petitioner had a limited range of motion in both knees to 120 degrees in flexion. Petitioner was recommended for surgery, however the surgeon stated she had to lose a significant amount of weight in order to have the surgery. Petitioner was using a walker due to the pain and limitation of her knees. The physician indicated the osteoarthritis could be seen in both knees, shoulders, and hips, and was thought to be due to her morbid obesity and body habitus. Petitioner weighed 344 pounds and was 5'4". Petitioner had a high BMI which placed a lot of stress on her joints, especially her knees, and the joints showed degeneration. Petitioner also had back pain due to her arthritis. She was also noted to have inspiratory and expiratory rhonchi which was possibly due to COPD. (Dept. Exh. A, pp 942-946).
7. On February 4, 2016, Petitioner underwent a Psychological Evaluation on behalf of the Department. The psychologist noted Petitioner ambulates with a walker. The psychologist opined that Petitioner currently met DSM 5 criteria for diagnoses of 300.82 somatic symptom disorder with predominant pain persistent moderate and an accompanying diagnosis of 309.28 adjustment disorder with anxiety and depressed mood. The psychologist indicated Petitioner's prognosis was guarded in that Petitioner reported significant health related concerns that interfered with her ability to maintain gainful employment including chronic pain. (Dept. Exh. A, pp 947-951).
8. Petitioner is a [REDACTED]-year-old woman born on [REDACTED]. She is 5'2" and weighs 345 pounds. She is a high school graduate and last worked in June, 2010 as a cook.
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.

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 has a history of arthritis, herniated discs, osteoporosis, fibromyalgia, degenerative disc disease, osteoarthritis, varicose veins, hyperlipidemia, goiter, anxiety, depression, high blood pressure, morbid obesity, edema, obstructive sleep apnea, chronic obstructive pulmonary disease, shortness of breath, Baker's cyst in left knee, palpitations, Hashimoto's disease, epidural lipomatosis at the lumbosacral level and mild congenital lumbar spinal canal stenosis.

Petitioner credibly testified that she has been using a walker for over two years. She stated that she can walk 20 feet with her walker, stand for five or ten minutes, and sit for 20 minutes. She explained she is unable to pick up and carry anything because she uses a walker. Petitioner testified that she needs assistance bathing and dressing, as she cannot bend over to tie her shoes or put her socks on, and is unable to get in and out of the shower on her own.

Petitioner's complaints and allegations concerning her impairments and limitations, when considered in light of all the 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 continuously for a period of 90 days or longer. As such, the Department's denial of SDA pursuant to Petitioner's October 23, 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 Petitioner disabled for purposes of the SDA benefit program.

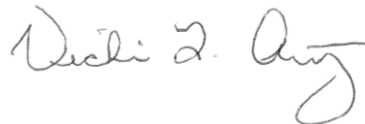
DECISION AND ORDER

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 October 23, 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 June, 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]

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