



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: June 20, 2016
MAHS Docket No.: 16-005498
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 8, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified with her Case Manager/Psychologist, [REDACTED]. The Department of Health and Human Services (Department) was represented by Eligibility Specialists, [REDACTED] and [REDACTED].

PROCEDURAL HISTORY

The following exhibits were offered and admitted into evidence:

Department: A—Medical Review Team (MRT) denial received on March 2, 2016.
B—Medical Packet.

ISSUE

Whether the Department properly determined that the Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On June 24, 2015, the Petitioner applied for SDA.
2. On March 1, 2016, the MRT denied the Petitioner's request.

3. On April 21, 2016, the Petitioner submitted to the Department a request for hearing.
4. The Petitioner is [REDACTED] years old.
5. The Petitioner completed education through high school.
6. The Petitioner has sporadic employment experience and last worked in 2012 at [REDACTED]. The Petitioner has also worked at [REDACTED] stocking shelves on the third shift and also previously worked at hotels cleaning rooms.
7. The Petitioner's limitations have lasted for 12 months or more.
8. The Petitioner suffers from Post-Traumatic Stress Disorder, major depressive disorder, ADHD, anxiety, asthma, carpal tunnel, a torn meniscus in her right knee and four cyst under her right knee, hypothyroid, obesity, bone spurs on both of her feet and a possible TBI.
9. The Petitioner has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
10. The Petitioner has significant limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of 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.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

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 exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income 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.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability. 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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph

(B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

In this case, the Petitioner's Case Manager/Psychologist [REDACTED] testified that she has known the Petitioner for 3 to 3 ½ years. Case Manager/Psychologist [REDACTED] testified that she rarely attends disability hearings because, in her experience, many patients who pursue disability benefits are not truly disabled. Case Manager/Psychologist [REDACTED] testified that she was present at the hearing today because she believes that the Petitioner has a severe case of borderline personality disorder. Case Manager/Psychologist [REDACTED] is the Petitioner's group therapist for Dialectical Behavior Therapy; a specific treatment for people with Borderline Personality Disorder.

The Petitioner's Case Manager/Psychologist Goldin testified that the Petitioner's GAF is a 40, which is indicative of major impairment in several areas. The Petitioner testified that she has frequent suicidal thoughts, that she has issues with people and just doesn't trust them, she tends to isolate, she has anger issues, and homicidal thoughts and violent tendencies. She also suffers from frequent crying spells, panic attacks auditory hallucinations and anxiety. The Petitioner suffers from low self-esteem and has anxiety regarding what people think of her; she is afraid people will think she is not good enough. The Petitioner, some nights, sleeps only two hours. The Petitioner's activities of daily living are dramatically impacted by her mental condition, regardless of her compliance with treatment.

In this case, this Administrative Law Judge finds that the Petitioner may be considered presently disabled at the third step. The Petitioner appears to meet listing 12.06 or its equivalent. This Administrative Law Judge will not continue through the remaining steps of the assessment. The Petitioner's testimony and the medical documentation support the finding that the Petitioner meets the requirements of a listing.

Therefore, the Petitioner is found to be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Petitioner is medically disabled as of June, 2015.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to initiate a review of the application dated June 24, 2015, if not done previously, to determine the Petitioner's non-medical eligibility. The Department shall inform the Petitioner of the determination in writing. A review of this case shall be set for July, 2017.



SH/nr

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]