



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 23, 2016
MAHS Docket No.: 16-005519
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] [REDACTED] appeared and testified with his mother, [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor, [REDACTED] [REDACTED]

PROCEDURAL HISTORY

The following exhibits were offered and admitted into evidence:

Department: A-- April 7, 2016, Medical Review Team (MRT) denial.
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 July 22, 2015, the Petitioner applied for SDA.
2. On April 7, 2016, the MRT denied the Petitioner's request.

3. On April 25, 2016, the Petitioner submitted to the Department a request for hearing.
4. The Petitioner is ■ years old.
5. The Petitioner completed education through high school was in special education in school due to an intellectual disability. The Petitioner's mother testified that the Petitioner was eligible under the category of MR.
6. The Petitioner has employment experience and last worked in 2014 as a laborer.
7. The Petitioner's limitations have lasted for 12 months or more.
8. The Petitioner suffers from a marked intellectual disability, an inguinal hernia with implanted mesh that has since been removed and has weakened the Petitioner. The Petitioner also has damage to his left leg as a result of the 200 pound door falling on it. He has resulting nerve damage his knee down to the top of his foot is now numb.
9. The Petitioner has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and squatting.
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 record establishes that the Petitioner's most disabling impairment is his intellectual disability. The objective, psychiatric evidence in the record contains an intellectual assessment which reports the results of the Wechsler Adult Intelligence Scale instrument which was administered to the Petitioner on February 26, 2016. The Petitioner was found to have a full scale IQ of 69, which is in the extremely low range. The Petitioner's working memory had a standard score of 66 which is also in the extremely low range. The low scores from the assessment suggest poor short-term auditory memory, retention and recall. The Petitioner testified that his memory is so poor that he needs to take a picture list to the store with him; a list with pictures depicting the items that he needs to purchase.

The Intellectual Assessment indicates that the Petitioner put effort into his responses and that his scores are considered to be a valid representation of his current intellectual functioning. It was concluded that the Petitioner is likely to have difficulty managing his benefits funds in his own best interests.

Furthermore, the objective, medical evidence in the record indicates a history of left inguinal hernia repair which is supportive of the Petitioner's and the Petitioner's mother's testimony indicating that the mesh had to be removed. The Petitioner testified that when the mesh was implanted eight years ago he was told to take it easy and he did not listen to the doctor. The Petitioner's mother testified that the Petitioner thinks that he can do more than he can. Indeed, the objective, medical evidence in the record indicates that the Petitioner's there is an abnormal tear and adjacent to the bladder on the side of the hernia which may be related to the mesh. There is also an inflammatory process associated with the inguinal canal. The Petitioner now suffers from urinary incontinence, post-void dribbling. The Petitioner's treating physician indicates that the Petitioner has severe pain whenever he moves. It is especially exacerbated every time he pushes, or drank even modestly heavy objects. The Petitioner is to absolutely not lift anything heavier than 10 pounds.

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 12.05(c) 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 July, 2015.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to initiate a review of the Petitioner's case, 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]