



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: September 23, 2016
MAHS Docket No.: 16-010243

[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 September 1, 2016, from Lansing, Michigan. Petitioner and his [REDACTED], personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Assistance Payment Worker [REDACTED]. Department Exhibit A (pages 1-33) and Department Exhibit B (pages 1-290) were admitted into evidence. 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 November 12, 2015, Petitioner applied for SDA.
2. On April 14, 2016, the Medical Review Team (MRT) denied Petitioner's SDA application. [Dept. Exh. A, pp 2-8].
3. On July 18, 2016, the Department sent Petitioner notice that his application was denied.

4. On July 18, 2016, Petitioner filed a Request for Hearing to contest the Department's negative action.
5. Petitioner has a history of depression, anxiety, hyperlipidemia, cellulitis, and arthritis.
6. On October 13, 2015, Petitioner was referred to [REDACTED] after being released from prison. Petitioner shared that he had violated his parole 13 months prior and was sent to prison. Petitioner had attended outpatient counseling at [REDACTED] in the past. Petitioner identified family, work, legal and financial difficulties. He reported being in good physical health. He stated he was struggling with depression and had an appointment that afternoon with his doctor to discuss it. Petitioner was referred to [REDACTED] [REDACTED] [Dept. Exh. B, p 176].
7. On November 9, 2015, Petitioner saw his primary care physician for a medication review. An annual preventative visit and annual depression screening was completed. Petitioner's medical history included elevated lipids, unspecified disorder of lipid metabolism, tobacco use disorder and overweight. Petitioner stated he was an everyday smoker and quit drinking in August, 2002. Petitioner reported feeling well. His blood pressure was elevated. He was alert, cooperative and well groomed. His gait was normal. He had full range of motion in all joints. He had a normal attention span and ability to concentrate and name objects and repeat phrases. His affect, speech, thought content and cognitive function were normal. [Dept. Exh. B, pp 187-190].
8. On November 17, 2015, Petitioner presented to [REDACTED] at the direction of his parole officer and [REDACTED]. It was noted that Petitioner had several psycho-social stressors that were impacting his mental and emotional health and contributing to a major depressive episode. Petitioner had had one job since getting out of prison and he had quit due to symptoms of depression and anxiety. Petitioner felt overwhelmed about his circumstances to work through what he needed to. Petitioner reported that he lost the motivation to do the things he knows that he should be doing. He was unsure how to get his life back on track. He stated he felt very unsettled in social or public places and when at work. The therapist noted that Petitioner's behavior/motor activity was normal and he was alert. He was oriented to person, place and time. His insight and memory were good. He was intact with reality. There were no current or previous history of suicidal or homicidal thoughts or attempts. His general appearance was neat and clean. He appeared of average intelligence. His speech and communications were normal. His mood was depressed and pessimistic. His affect was restricted. His thought content was paranoid. Petitioner reported that he had five months left before the [REDACTED] would stop paying for his hotel room. The therapist opined that Petitioner met the criteria for major depression and alcohol dependence in sustained remission. Petitioner was requesting out-patient support to assist with his depressive symptoms and coping. [Dept. Exh. B, pp 157-167].

9. On December 7, 2015, Petitioner attended a medication review with his primary care physician. Petitioner reported he was feeling well. Petitioner was alert, cooperative, and well groomed. [Dept. Exh. B, pp 143-146].
10. On [REDACTED], Petitioner saw his primary care physician for a medication evaluation. Petitioner reported no side effects from his medication. Petitioner was stable and reported feeling much better on the medication but he still had some anxiety. [Dept. Exh. B, pp 139-142].
11. On [REDACTED], Petitioner was seen by his primary care physician for nail problems. He was diagnosed with onychomycosis of the toenail and prescribed oral and topical antifungal medications. [Dept. Exh. B, pp 137-138].
12. Petitioner is a [REDACTED] year-old man born on [REDACTED]. He is [REDACTED] and weighs [REDACTED] pounds. He has a high school education.
13. Petitioner was appealing the denial of Social Security disability at the time of the hearing.
14. 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).

At hearing, Petitioner listed his disabilities as depression, anxiety and arthritis. Petitioner stated it was his depression he was seeking disability benefits for.

This Administrative Law Judge reviewed Social Security Listing 12.04. Listing 12.04, Affective Disorders, are characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the medically documented persistence, either continuous or intermittent of depressive syndrome, mania or bipolar disorder result in restrictions on activities of daily living, social functioning, concentration or repeated instances of decompensation.

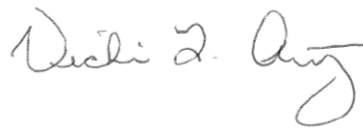
With regards to the Petitioner's mental impairments, this Administrative Law Judge has carefully considered all the evidence of record in light of the requirements of section 12.04 (affective disorders). The record evidence does not show that Petitioner's mental disorders satisfy the diagnostic criteria characterized by anhedonia or pervasive loss of interest in almost all activities, appetite disturbance with change in weight, decreased energy and feelings of guilt or worthlessness resulting in marked difficulties in maintaining social functioning, concentration, persistence and pace.

While there is evidence in the record that Petitioner is being treated for his depression, there is nothing in the record indicating that Petitioner is or was unable to engage in substantial gainful work activity for at least 90 continuous days.

Therefore, 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 not disabled for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.



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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