



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: January 13, 2017
MAHS Docket No.: 16-016949

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 December 14, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED] AP Supervisor. Department Exhibit 1, pp.1-245 was received and admitted without objection.

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. Petitioner applied for SDA on April 12, 2016.
2. The Medical Review Team denied the application on October 20, 2016.
3. Petitioner filed a request for hearing November 9, 2016, regarding the SDA denial.
4. A telephone hearing was held on December 14, 2016.

5. Petitioner is [REDACTED] tall and weighs [REDACTED] pounds having lost 1 [REDACTED] pounds in the last year.
6. Petitioner is [REDACTED] years of age.
7. Petitioner's impairments have been medically diagnosed as back pain, hypertension, elbow injury, left shoulder injury, and coronary artery disease.
8. Petitioner has the following symptoms: pain, fatigue, insomnia, and history or seizures.
9. Petitioner completed high school and some college courses.
10. Petitioner is able to read, write, and perform basic math skills.
11. Petitioner is not working. Petitioner last worked in November 2016 as a golf shop salesman. Petitioner worked at the golf shop earning [REDACTED] per hour, [REDACTED] hours per week from September 2016 through November 2016. Petitioner testified that the job was seasonal and he could have continued if they had not closed for the season. Petitioner testified that he could have worked more hours.
12. Petitioner lives alone.
13. Petitioner testified that he cannot perform some household chores.
14. Petitioner takes the following prescribed medications:
 - a. Simvastatin
 - b. Imdur
 - c. Trazodone
 - d. Nitro
 - e. Flomax
 - f. rabumenton
15. Petitioner testified to the following physical limitations:
 - i. Sitting: 10-15 minutes
 - ii. Standing: 10-50 minutes
 - iii. Walking: 1 block
 - iv. Bend/stoop: difficulty
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: no limitations
16. Petitioner testified to experiencing pain, at a high level of 5-6, on an everyday basis with some pain always present at a low level of 4.

17. A consultative physical examination report completed on September 23, 2016, states the following under CONCLUSION: "In summary, this patient is a pleasant, ■-year-old right handed male who presents to our clinic with a history of shoulder and back problems, heart disease, depression and anxiety. The patient has a history of left shoulder reverse total arthroplasty. He is in the process of planning a total shoulder replacement in the fall. Regarding his low back pain, he does have lower lumbar back pain with a radicular component. I believe this is not related to his previous compression fractures and is likely due to degenerative spondylosis changes due to his symptomatology in the left L5 component. Regarding his history of coronary artery disease, he is status post stent placement with multiple myocardial infarctions. He seems to be controlled at this time. He does have a thoracic aortic aneurysm that is currently being watched." (Dept. Ex.1, pp.42-46)

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.

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

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“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.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Petitioner is not working. Therefore, the Petitioner is not disqualified at this step in the evaluation.

The second step to be determined in considering whether the Petitioner is considered disabled is the severity of the impairment. In order to qualify the impairment must be considered severe, which is defined as an impairment which significantly limits an individual's physical, or mental, ability to perform basic work activities. Examples of these include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering, simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers, and usual work situations; and
6. Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the Petitioner's medical evidence of record supports a finding that Petitioner has significant physical and mental limitations upon Petitioner's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that the Petitioner has an impairment (or combination of impairments) that has more than a minimal effect on the Petitioner's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, the trier of fact must determine if the Petitioner's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Petitioner's medical record does not support a finding that the Petitioner's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 1.02 and 12.04 were considered.

The person claiming a physical, or mental, disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CFR 416.913. A conclusory statement by a physician, or mental health professional, that an individual is disabled, or blind, is not sufficient without supporting medical evidence, to establish disability. 20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Petitioner has the ability to perform work previously performed by the Petitioner within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Petitioner from doing past relevant work. In the present case, the Petitioner's past employment was as a golf shop salesman. Working as a golf shop salesman, as described by Petitioner at hearing, would be considered light work. The Petitioner's impairments would not prevent Petitioner from doing past relevant work. Petitioner testified that he was able to perform the golf shop salesman job in the fall of 2016 and would have continued with that job if it had not ended. Petitioner would have been income ineligible for SDA during the months of [REDACTED]. Petitioner's testimony regarding his physical limitations was not supported by substantial medical evidence. Petitioner failed to present substantial medical evidence that he has an ongoing psychological impairment that is significantly limiting.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Petitioner is NOT medically disabled for the purposes of SDA eligibility.

Accordingly, the Department's decision is hereby **AFFIRMED**.



Aaron McClintic

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]