



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: March 23, 2017  
MAHS Docket No.: 16-014602  
Agency No.: [REDACTED]  
Petitioner: [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 January 3, 2017, from Lansing, Michigan. The Petitioner was represented by his Authorized Representative [REDACTED] [REDACTED]. Petitioner did not testify at hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED] AP Supervisor, [REDACTED] [REDACTED] Eligibility Specialist, and [REDACTED] [REDACTED] Eligibility Specialist, also appeared and testified. Respondent's Exhibit 1, pp.1-183 and Exhibit 2, pp. 1-9 were received and admitted. The record was extended to have psychological and IQ testing completed at the request of Petitioner. Petitioner waived timeliness standards. On February 21, 2017, the testing results were received and the record closed.

### **ISSUE**

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

### **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 February 16, 2016.
2. The Medical Review Team denied the application on September 12, 2016.
3. Petitioner filed a request for hearing October 6, 2016, regarding the SDA denial.

4. A telephone hearing was held on January 3, 2016.
5. Petitioner is 5'4" tall and weighs 143 pounds.
6. Petitioner is 48 years of age.
7. Petitioner's impairments have been medically diagnosed as diabetes, neuropathy, history of seizures, left shoulder injury, depression, and anxiety.
8. Petitioner has the following symptoms: pain, fatigue.
9. Petitioner completed high school and culinary training.
10. Petitioner is able to read, write, and perform basic math skills.
11. Petitioner is not working. Petitioner last worked in 2003 as a cook's helper.
12. Petitioner lives alone.
13. Petitioner cannot perform some household chores.
14. Petitioner takes the following prescribed medications:
  - a. Metformin
  - b. Glipizide
  - c. Gabapentin
  - d. Prilosec
15. Petitioner underwent IQ testing on February 3, 2017, that found him to have a full scale IQ score of ■■■, verbal comprehension score of ■■■, perceptual reasoning score of ■■■, working memory score of ■■■, and processing speed index of ■■■. (Dept. Ex. 2. pp. 1-9)
16. Petitioner also underwent psychological testing and was found to have a GAF score of ■■■ with diagnoses of borderline intellectual functioning and unspecified learning disorder. (Dept. Ex. 1, pp.1-9)
17. Petitioner was not receiving psychiatric treatment at the time of hearing and was not taking any medication related to mental health treatment.
18. A Psychiatric/Psychological Medical Report dated July 28, 2016, found Petitioner to have a GAF score of ■■■ with diagnoses of pervasive developmental disorder and learning disorder NOS, and borderline intellectual functioning. (Dept. Ex.1., pp. 64-66)

## **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 9.00 and 12.05 were considered. Petitioner's most recent full scale IQ was [REDACTED], therefore he does not meet the criteria for 12.05.

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 cook's helper. Working as a cook's helper, as described by Petitioner's Representative at hearing, would be considered light work. The Petitioner's impairments would not prevent Petitioner from doing past relevant work. Petitioner failed to present substantial medical evidence that he has an ongoing psychological impairment that is significantly limiting. It was difficult to ascertain the extent of Petitioner's medical problems and his ability to perform work without him testifying at hearing.

### **DECISION AND ORDER**

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 not disabled for purposes of the SDA benefit program.

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

AM/mc



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**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

**DHHS**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]