



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: September 21, 2017
MAHS Docket No.: 17-008701
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. After due notice, a telephone hearing was held on August 24, 2017, from [REDACTED] Michigan. Petitioner was represented by himself. [REDACTED] also appeared and testified for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], AP Supervisor. Department Exhibit 1, pp. 1-317 was received and admitted.

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 October 28, 2016.
2. The Medical Review Team denied the application on June 26, 2017.
3. Petitioner filed a request for hearing on June 30, 2017, regarding the SDA denial.
4. A telephone hearing was held on August 24, 2017.
5. Petitioner is 6' 0" tall and weighs 250 pounds having gained 25 pounds in the last year.
6. Petitioner is 46 years of age.

7. Petitioner's impairments have been medically diagnosed as neck injury and pain, lumbar stenosis, carpal tunnel syndrome, central pain syndrome, migraine headaches, asthma, bipolar II disorder, generalized anxiety disorder, panic disorder and social anxiety disorder.
8. Petitioner has the following symptoms: pain, fatigue, shortness of breath, insomnia, panic attacks, memory and concentration problems, suicidal thoughts and social isolation.
9. Petitioner completed high school and some college.
10. Petitioner is able to read, write, and perform basic math skills.
11. Petitioner is not working. Petitioner last worked in 2010 as a handyman.
12. Petitioner lives with his parents.
13. Petitioner testified that he cannot perform some household chores.
14. Petitioner was taking the following medication:
 - a. allopurinol
 - b. carvedilol
 - c. lisinipril
 - d. omeprazole
 - e. symbicort
 - f. latuda
 - g. Elavil
 - h. Lamictal
 - i. Ventolin
15. Petitioner testified to the following physical limitations:
 - i. Sitting: 30 minutes
 - ii. Standing: 3-4 minutes
 - iii. Walking: 20 feet
 - iv. Bend/stoop: difficulty
 - v. Lifting: 8 lbs.
 - vi. Grip/grasp: no limitations
16. Petitioner testified to experiencing pain, at a high level of 7, on an everyday basis with some pain always present at a low level of 5.
17. In a psychological examination report dated May 3, 2017, Petitioner was found to have diagnoses of Bipolar II Disorder, with rapid cycling, generalized anxiety disorder, panic disorder and social anxiety disorder. This report also has a

Medical Source Statement: "The client's medical problems will likely limit his ability to do physical labor. His mood swings and social anxieties will make it very difficult for him to work with people. He also has stress triggered panic attacks." Petitioner's prognosis was found to be guarded. (Dept. Ex. A. p.51)

18. In a Medication Review dated August 26, 2016, from [REDACTED], Petitioner was found to have diagnoses of major depressive disorder, recurrent episode, severe and generalized anxiety disorder. (Dept. Ex. A, p.302)
19. Petitioner uses a cane to ambulate.

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, 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, 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 this case, this Administrative Law Judge finds that Petitioner may be considered presently disabled at the third step. Petitioner meets listing 12.04 or its equivalent. The testimony of Petitioner's treating therapist supports this position. This Administrative Law Judge will not continue through the remaining steps of the assessment. Petitioner's testimony and the medical documentation support the finding that Petitioner meets the requirements of the listing. Petitioner has other significant health problems that were not fully addressed in this decision because Petitioner is found to meet a listing for a different impairment.

Therefore, 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 Petitioner is medically disabled as of October 2016.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is ORDERED to:

1. Initiate a review of the application for SDA dated October 28, 2016, if not done previously, to determine Petitioner's non-medical eligibility.
2. The Department shall inform Petitioner of the determination in writing. A review of this case shall be set for September 2018.

AM/md



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]

Petitioner

[REDACTED]