



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 18, 2017  
MAHS Docket No.: 17-006929  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on July 24, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], supervisor.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) eligibility for the reason that Petitioner is not a disabled individual.

**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 June 9, 2016, Petitioner applied for SDA benefits (see Exhibit 1, pp. 87-118).
2. Petitioner's only basis for SDA benefits was as a disabled individual.
3. On March 14, 2017, the Disability Determination Service determined that Petitioner was not a disabled individual (see Exhibit 1, pp. 9-16).
4. On March 17, 2017, MDHHS denied Petitioner's application for SDA benefits.
5. On May 30, 2017, Petitioner requested a hearing disputing the denial of SDA benefits (see Exhibit 1, p. 2)

6. As of the date of the administrative hearing, Petitioner did not have employment earnings amounting to substantial gainful activity.
7. As of the date of the administrative hearing, Petitioner was a ■-year-old male.
8. Petitioner's highest education year completed was the 12<sup>th</sup> grade.
9. Petitioner has a history of semi-skilled employment, with no known transferrable job skills.
10. Petitioner has no severe impairments related to established medical problems.

### **CONCLUSIONS OF LAW**

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. MDHHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. MDHHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of an SDA application. Petitioner claimed an inability to work for 90 days due to mental and/or physical disabilities. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-7) dated March 17, 2017, verifying Petitioner's application was denied based on a determination that Petitioner was not disabled.

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (April 2017), p. 5. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.*

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), p. 1. A person is disabled for SDA purposes if he or she meets any of the following criteria:

- Receives other specified disability-related benefits or services....
  - Resides in a qualified Special Living Arrangement (SLA) facility.
  - 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)...
- Id.*, pp. 1-2.

When the person does not meet one of the [above] criteria, [MDHHS is to] follow the instructions in BAM 815, Medical Determination and Disability Determination Service (DDS), Steps for Medical Determination Applications. *Id.*, p. 4. The DDS will gather and review the medical evidence and either certify or deny the disability claim based on the

medical evidence. *Id.* The review of medical evidence is primarily outlined by federal law.

[State agencies] must use the same definition of disability as used under SSI... 42 C.F.R. § 435.540(a). [Federal] law defines disability 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 C.F.R. § 416.905(a).

MDHHS adopted a functionally identical definition of disability (see BEM 260 (July 2015), p. 10). The same definition applies to SDA, though SDA eligibility factors only a 90-day period of disability.

In general, you have to prove... that you are blind or disabled. 20 C.F.R. § 416.912(a). You must inform us about or submit all evidence known... that relates to whether or not you are blind or disabled. *Id.* Evidence includes, but is not limited to objective medical evidence (e.g. medical signs and laboratory findings), evidence from other medical sources (e.g. medical history and opinions), and non-medical statements about symptoms (e.g. testimony) (see *Id.*).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled (see 20 C.F.R. § 416.920). If there is no finding of disability or lack of disability at each step, the process moves to the next step (see *Id.*)

The first step in the process considers a person's current work activity (see 20 C.F.R. §416.920 (a)(4)(i)). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2016 monthly income limit considered SGA for non-blind individuals is \$1,130.00.

SGA means a person does the following: performs significant duties, does them for a reasonable length of time, and does a job normally done for pay or profit. *Id.*, p. 9. Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute SGA. *Id.*

Petitioner credibly denied performing current employment; no evidence was submitted to contradict Petitioner's testimony. Based on the presented evidence, it is found that Petitioner is not performing SGA. Accordingly, the disability analysis may proceed to the second step.

At the second step, [SSA will] consider the medical severity of your impairment(s). 20 C.F.R. §416.920 (a)(4)(ii). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in §416.909, or a

combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. *Id.*

Generally, federal courts have imposed a de minimus standard upon petitioners to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> Cir. 1988). Similarly, SSR 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1<sup>st</sup> Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirements are intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1<sup>st</sup> Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis (see 20 C.F.R. § 416.920 (5)(c)). In determining whether Petitioner's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with a summary of presented medical documentation and Petitioner's testimony.

Physician office visit notes (Exhibit 1, pp. 74-75) dated [REDACTED], were presented. Eye treatment was noted. Diagnoses included eye swelling, hypertension (HTN), and a liver disorder.

Physician office visit notes (Exhibit 1, pp. 66-68) dated [REDACTED] were presented. It was noted Petitioner presented for a 6-month follow-up visit. Daily vomiting episodes were reported. An impression of alcoholic liver disease was noted. Petitioner reported drinking 8-10 beers per day. Alcohol abstinence was recommended.

Physician office visit notes (Exhibit 1, pp. 61-65) dated [REDACTED], were presented. Treatment for cirrhosis was noted.

A colonoscopy report (Exhibit 1, p. 55) dated [REDACTED], was presented. A 1.5 centimeter fragment of tissue in Petitioner's colon was noted. Procedural notes indicated the polyp was removed (see Exhibit 1, pp. 57-58).

Gastroenterologist office visit notes (Exhibit 1, pp. 52-54) dated [REDACTED], were presented. It was noted that Petitioner reported "feeling good" and had no complaints. It was noted Petitioner continued to drink 5-6 beers per day. Alcohol abstinence was recommended though Petitioner was unwilling.

Petitioner testimony alleged impairments, in part, due to nerve damage in his feet and hands. Petitioner testimony alleged fibrosis tumors contributed to nerve damage;

Petitioner testified the condition is hereditary. Petitioner also alleged neuropathy is a contributing factor. Petitioner testified tumors were removed several years ago, but they have since returned. Petitioner testified the nerve damage affects his right side more than his left.

Petitioner testified he has carpal-tunnel syndrome (CTS) in his right hand. Petitioner testified he tried physical therapy, but it did not help. Petitioner testified he underwent outpatient surgery for CTS in February 2017. Petitioner testified he still gets hand cramps and has difficulty picking-up items.

Petitioner testified he has lumbar pain. Petitioner testified he is in need of radiology.

Petitioner testified he sometimes uses a cane for ambulation. Petitioner testified he is limited to walking of 2-3 blocks and standing for 1-2 hours. Petitioner testified he can sit for extended periods, though needs a minute after arising to unstiffen his back. Petitioner estimated his lifting/carrying is restricted to 30 pounds.

Petitioner testified he has no difficulties with bathing, dressing, housework, or performing laundry. Petitioner testified he spends a lot of time lying down and elevating his feet.

Presented medical records did not verify any insightful treatment for conditions relevant to Petitioner's alleged impairments. Presented documents only verified treatment for liver disease and/or gastrointestinal issues. Presented records were not indicative of impairments related to liver disease. Petitioner testimony conceded he had no impairments related to liver disease and/or digestive order dysfunction.

Based on presented records, Petitioner failed to establish a severe impairment. Accordingly, Petitioner is not disabled and it is found that MDHHS properly denied Petitioner's SDA application.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS properly denied Petitioner's MA benefit application dated June 9, 2016, based on a determination that Petitioner is not disabled. The actions taken by DHHS are **AFFIRMED**.

CG/hw



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**Christian Gardocki**

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]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]