



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 22, 2018  
MAHS Docket No.: 18-003879  
Agency No.: [REDACTED]  
Petitioner: [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. After due notice, a telephone hearing was held on May 30, 2018, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist Tracey Walczak. Ms. Walczak testified on behalf of the Department. The Department submitted 336 exhibits which 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 based upon medical improvement?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was receiving SDA at all times pertinent to this case.
2. Petitioner filed a Redetermination for SDA benefits alleging continuing disability in October 2017. [Hearing Summary].
3. The Medical Review Team (MRT) denied Petitioner's continuing SDA benefits. [Dept Exh. 40-46].

4. Petitioner is diagnosed with Parkinson's disease, hypertension, dyslipidemia, gastroesophageal reflux disease, hypothyroidism, major depressive disorder, generalized anxiety disorder, social anxiety disorder, antisocial personality disorder, unspecified disruptive impulse-control and conduct disorder, alcohol use disorder and tobacco use disorder.
5. On May 8, 2017, Petitioner met with his neurologist concerning his diagnosis of Parkinson's disease. Petitioner indicated his symptoms were satisfactorily controlled. He was no longer having freezing spells, hallucinations, injurious falls, cognitive slowing or depression. Petitioner reported that his depression was being successfully managed on Wellbutrin and valproic acid (VPA). Petitioner had a resting tremor, but the intention and action tremors were absent. [Dept Exh. 227-231].
6. On July 7, 2017, Petitioner attended his medication review at Community Mental Health (CMH) for Central Michigan. Petitioner presented with a history of impulse control disorder, major depressive disorder and generalized anxiety disorder. Petitioner reported that his mood was stable, and he was sleeping fairly well. He also indicated that he was keeping busy with the garden. The psychiatrist opined that Petitioner had no psychomotor agitation/retardation, his mood was stable, his insight was fair to good and he had good judgment. [Dept Exh. 238-240].
7. On September 18, 2017, Petitioner presented to his primary care physician for tremors. Petitioner reported not finding pleasure in doing as much as before. He indicated he has been easily irritable and agitated. Petitioner reported unintentionally losing 11 pounds in three months. On exam, Petitioner had blurred vision and heartburn. Petitioner was diagnosed with weight loss, uncontrolled thyroid function and worsening depression and anxiety. [Dept Exh. 269-272].
8. On November 13, 2017, Petitioner saw his primary care physician for guidance in completing paperwork for disability. Petitioner is diagnosed with Parkinson's disease, major depressive disorder, general anxiety disorder, social anxiety disorder, antisocial personality disorder, and unspecified disruptive impulse control and conduct disorder. Petitioner is under the care of neurology and psychiatry. A review of symptoms showed fatigue, depression, tremors, and decreased concentration. Petitioner's physician opined that Petitioner appeared nervous and anxious. [Dept. Exh. 267-268].
9. On January 4, 2018, Petitioner presented for his medication review. The physician noted that Petitioner continues to take his medications as prescribed without side effects. Petitioner stated that his mood had improved, his sleeping was fair, and his appetite was good. Petitioner indicated he was spending time at the scrap yard, although he has some conflict with his brother. The physician noted that Petitioner was neatly dressed and groomed. He was alert and oriented X3. He had good eye contact with normal rate and rhythm of speech. There was no psychomotor agitation/retardation. His mood was stable and he had an appropriate

affect. His thinking was linear without delusions or hallucinations. His insight was fair to good, and his impulse control was intact. [Dept. Exh. 322-326].

10. On January 19, 2018, Petitioner underwent a psychosocial assessment at CMH. Petitioner reported dealing with a lot of stress regarding his brother. His brother was starting a business, and when Petitioner would work for him, his brother did not pay him, which was causing problems between them. Petitioner explained that his father is on oxygen 24/7 for his chronic obstructive pulmonary disease (COPD), and his mother was wheelchair bound. Petitioner indicated that he takes his parents to their appointments. Petitioner reported that his anxiety was a little better with the medication because he was able to do some shopping now. Petitioner reported some depression on an occasional basis, but overall the medications seemed to be helping him. Petitioner reported trying to hang himself while in prison. One of the guards found him and put him on suicide watch. He was on suicide watch four times while in prison. Petitioner indicated he carries knives on him and his Dad collects guns, which are locked up. He reported infrequent employment. Petitioner reported he is independent in the following daily living skills: eating/feeding, toileting, bathing, dressing, grooming, transferring, ambulation/mobility, medication administration, laundry, cooking, daily living transportation, housecleaning, paying bills, leisure/recreation and community access. [Dept. Exh. 301-321].
11. On February 5, 2018, Petitioner presented to CMH for therapy. Petitioner reported getting out hunting during bow season. He also indicated that he had a good relationship with his parents. He takes care of them. Petitioner does the cooking, cleaning, etc., and takes care of the property, i.e. mowing the lawn, cutting wood, etc. [Dept. Exh. 290-297].
12. On February 27, 2018, Petitioner met with his therapist at CMH. Petitioner began the session by stating that things had been pretty good. He reported that with the nice weather there were a lot of things to do. He reported being able to tolerate going into a store/public place as long as he had an agenda. He explained that as long as he stuck to his agenda, he could tolerate it. But, if he was with his mother and she wanted to browse, he would have to leave and wait for her in the car. [Dept. Exh. 286].
13. Petitioner testified during the hearing that his mother helps him with the housekeeping. He stated he could walk maybe a yard, stand for half hour to an hour, sit for an hour and carry 15 pounds back and forth. In light of the medical evidence, Petitioner's testimony lacks credibility.
14. On March 30, 2018, the Department mailed Petitioner a Notice of Case Action, informing Petitioner the SDA benefits would close. [Hearing Summary].
15. On April 16, 2018, Petitioner submitted a Request for Hearing to the Department contesting the Department's denial.

## **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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Pursuant to the federal regulations at 20 CFR 416.994, once a client is determined eligible for disability benefits, the eligibility for such benefits must be reviewed periodically. Before determining that a client is no longer eligible for disability benefits, the agency must establish that there has been a medical improvement of the client's impairment that is related to the client's ability to work. 20 CFR 416.994(b)(5).

To assure that disability reviews are carried out in a uniform manner, that a decision of continuing disability can be made in the most expeditious and administratively efficient way, and that any decisions to stop disability benefits are made objectively, neutrally, and are fully documented, we will follow specific steps in reviewing the question of whether your disability continues. Our review may cease and benefits may be continued at any point if we determine there is sufficient evidence to find that you are still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

The first question asks:

- (i) Are you engaging in substantial gainful activity? If you are (and any applicable trial work period has been completed), we will find disability to have ended (see paragraph (b)(3)(v) of this section).

Petitioner is not disqualified from this step because he has not engaged in substantial gainful activity at any time relevant to this matter. Although there is some evidence that Petitioner works at his brother's junk yard on occasion. Further, the evidence on the record fails to establish that Petitioner has a severe impairment which meets or equals a listed impairment found at 20 CFR 404, Subpart P, Appendix 1. Therefore, the analysis continues. 20 CF 416.994(b)(5)(ii).

The next step asks the question if there has been medical improvement. Medical improvement is any decrease in the medical severity of your impairment(s) which was present at the time of the most recent favorable medical decision that you were disabled or continued to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs and/or laboratory findings associated with your impairment(s). 20 CFR 416.994(b)(1)(i).

If there is a decrease in medical severity as shown by the symptoms, signs and laboratory findings, we then must determine if it is related to your ability to do work. In paragraph (b)(1)(iv) of this section, we explain the relationship between medical severity and limitation on functional capacity to do basic work activities (or residual functional capacity) and how changes in medical severity can affect your residual functional capacity. In determining whether medical improvement that has occurred is related to your ability to do work, we will assess your residual functional capacity (in accordance with paragraph (b)(1)(iv) of this section) based on the current severity of the

impairment(s) which was present at your last favorable medical decision. 20 CFR 416.994(b)(2)(ii).


In this case, the medical evidence of record has shown improvement in Petitioner's symptoms. The evidence is based on medical sources as well as Petitioner's own admissions to medical staff.

As a result, the Department has met its burden of proof. The Department has provided evidence that indicates Petitioner's medical condition has improved and that improvement relates to his ability to do basic work activities. The agency has provided objective medical evidence from qualified medical sources that show Petitioner is currently capable of doing basic work activities.

**DECISION AND ORDER**

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

VLA/hb



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**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) 763-0155; 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**

Heather Englehart  
1509 Washington, Ste. A  
PO BOX 1609  
Midland, MI 48641

Midland County, DHHS

BSC2 via electronic mail

L. Karadsheh via electronic mail

**Petitioner**

[REDACTED]