



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 5, 2018  
MAHS Docket No.: 18-003125  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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; 42 CFR 438.400 to 438.424; 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 May 24, 2018 from Detroit, Michigan. The Petitioner appeared for the hearing with [REDACTED], of [REDACTED] and represented himself for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Lead Specialist.

**ISSUE**

Did the Department properly determine 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. On or around May 15, 2017 Petitioner submitted an application for cash assistance on the basis of a disability.
2. On or around February 16, 2018 Petitioner was scheduled to appear for a consultative examination. Petitioner reported that he was unable to attend on the scheduled date, as he was sick and did not have transportation.
3. Petitioner's consultative examination (exam) was rescheduled for March 1, 2018 and he was notified that a failure to attend could result in the closure of his case.

4. Petitioner did not timely appear for the rescheduled consultative exam. At the time Petitioner arrived, the examining doctor had already left for the day.
5. On or around March 5, 2018 the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program. The DDS determined that there was insufficient evidence, as Petitioner did not cooperate because he failed to attend the rescheduled consultative exam.
6. On or around March 9, 2018 the Department notified Petitioner that his SDA application was denied based on DDS' findings.
7. On March 22, 2018 Petitioner submitted a timely written Request for Hearing disputing the Department's denial of his SDA application.

### **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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (April 2017), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Determining whether an individual is disabled for SSI purposes requires the application of a five step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has the residual functional capacity to perform past relevant work; and (5) has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945. If an individual is found disabled, or not disabled, at any step in this process, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR

416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

The DDS develops and reviews medical evidence for disability and either certifies or denies a client's medical eligibility for SDA assistance. BEM 261, p. 4; BAM 815 (January 2017), p. 1. At application, if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability and the application will be denied. BAM 815, p. 2. A client may be required to attend one or more consultative examinations: if attempts to obtain evidence from a client's own medical sources are unsuccessful; to resolve an inconsistency in the evidence; or when the evidence as a whole is insufficient to allow a determination or decision on a client's claim. Generally, a consultative examination will not be requested until reasonable efforts have been made to obtain evidence from a client's own medical sources. 20 CFR 404.1512(b)(2); 20 CFR 404.1517; 20 CFR 404.1519a (a),(b); 20 CFR 416.912 (b)(2). Additionally, a failure to attend or participate in a consultative examination without good cause or reason may result in a finding of not disabled based on the failure to appear or cooperate. 20 CFR 416.918 (a), (b). Examples of good reasons for a failure to appear are found in 20 CFR 416.918 (b).

In this case, Petitioner was initially scheduled to attend a consultative examination, but was unable to do so due to illness. It was determined that Petitioner had a good cause reason for his inability to attend the first appointment and he was provided with a second opportunity to participate in an examination so additional medical evidence about his alleged impairments could be obtained. Petitioner was late in his arrival for the second consultative examination appointment and arrived after the examiner had left the office. Although Petitioner asserted during the hearing that he was late due to a snowstorm on the day of his appointment, upon review, Petitioner's explanation is insufficient to establish the good cause reasons found in 20 CFR 416.918 (b).

As such, upon review, the Department properly denied Petitioner's SDA application based on the DDS' conclusion that there was insufficient evidence to determine whether Petitioner met the medical requirements for disability, as he failed to cooperate by not timely attending the rescheduled consultative exam.

Petitioner is informed that he is entitled to submit a new application for SDA benefits and have his eligibility reviewed.

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 that the Department acted in accordance with Department policy when it denied Petitioner's May 5, 2017 SDA application.

**DECISION AND ORDER**

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



ZB/tlf

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**Zainab A. Baydoun**  
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

**Via Email:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner – Via First-Class Mail:**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]