



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: January 18, 2019
MAHS Docket No.: 18-011598
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 January 3, 2019 from Detroit, Michigan. The Petitioner appeared for the hearing and represented himself for the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program for failing to cooperate?

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 [REDACTED] [REDACTED] 2018 Petitioner submitted an application for cash assistance on the basis of a disability.
2. On June 19, 2018, the Department sent Petitioner a Notice of Disability Examination and a Confirmation of Disability Examination letter which scheduled a disability examination for July 23, 2018 at 10:00 a.m. (Exhibit B, pp. 44; 49-50).
3. On June 21, 2018, the Department sent Petitioner a notice that his appointment for Social Security or SSI disability benefits had been rescheduled to July 2, 2018 at 9:10 a.m. (Exhibit B, pp. 46-47).

4. On June 22, 2018, the Department sent Petitioner a Reminder to Attend Medical Examination letter which again confirmed his appointment for July 2, 2018 at 9:10 a.m. (Exhibit B, p. 45).
5. On June 26, 2018, the Department sent Petitioner a Request for Information letter which included the Function Report – Adult form. (Exhibit B, pp. 26-37).
6. On June 26, 2018, the Department sent Petitioner a Request for Information letter which included a form relating to Petitioner's seizures. (Exhibit B, pp. 39-43).
7. On August 6, 2018, the Department sent Petitioner a Notice of Information needed which indicated that this was the second time it had contacted Petitioner to request that he return forms needed to determine his eligibility for SDA benefits. (Exhibit B, p. 17).
8. On August 28, 2018, the Department sent Petitioner a Notice of Information needed which indicated that this was the second time it had contacted Petitioner to request that he return forms needed to determine his eligibility for SDA benefits. (Exhibit B, p. 8).
9. Petitioner failed to complete any of the forms and failed to appear for the consultative examinations.
10. On August 29, 2018, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 21-27).
11. On September 28, 2018, the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability (Exhibit A, pp. 10-12).
12. On October 23, 2018, the Department received Petitioner's timely written request for hearing (Exhibit A, p. 3).

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).

On June 19, 2018, the Department sent Petitioner a Notice of Disability Examination and a Confirmation of Disability Examination letter which instructed Petitioner to appear for a disability examination on July 23, 2018 at 10:00 a.m. On June 21, 2018, the Department sent Petitioner a notice that his appointment for Social Security or SSI disability benefits had been rescheduled to July 2, 2018 at 9:10 a.m. On June 22, 2018, the Department sent Petitioner a Reminder to Attend Medical Examination letter which again confirmed his appointment for July 2, 2018 at 9:10 a.m.

On June 26, 2018, the Department sent Petitioner a Request for Information letter which included the Function Report – Adult form. The Request for Information document included a self-addressed stamped envelope to allow for the return of the form with no expense to Petitioner. On the same day, the Department sent Petitioner a Request for Information letter which included a form relating to Petitioner's seizures. The instructions indicated that Petitioner was to have the form completed by someone who has witnessed him having a seizure.

On August 6, 2018, the Department sent Petitioner a Notice of Information needed which indicated that this was the second time it had contacted Petitioner to request that he return forms needed to determine his eligibility for SDA benefits. Also, on August 28, 2018, the Department sent Petitioner a Notice of Information needed which indicated that this was the second time it had contacted Petitioner to request that he return forms needed to determine his eligibility for SDA benefits.

Petitioner acknowledged that he received the documents. Petitioner seemed to provide several reasons as to why he did not complete the documents and/or appear for the scheduled appointments. Petitioner stated that he submitted a written withdrawal on June 10, 2018. It is unclear what action the June 10, 2018 referenced. Petitioner further stated that he believed his benefits had already been authorized. Petitioner did not provide any written documentation that his benefits had been approved. Additionally, Petitioner stated that he did not complete any documentation because he had three open cases and therefore did not believe he needed to complete any additional paperwork.

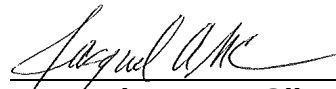
In this case, Petitioner acknowledged receiving the various documents sent to him by the Department. Petitioner further acknowledged that he did not appear for the scheduled examinations and did not complete the forms mailed to his correct address. It is therefore found that Petitioner failed, without good cause, to attend the mandatory consultative examination and failed to complete the necessary paperwork which would have allowed the Department to determine his eligibility for SDA benefits.

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 [REDACTED] [REDACTED] 2018 application for SDA benefits.

DECISION AND ORDER

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

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Robert Gordon, 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:

MDHHS-Macomb-20-Hearing
BSC4 Hearing Decisions
Policy-FIP-SDA-RAP
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]