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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 26, 2020
MOAHR Docket No.: 19-013890
Agency No.: ██████████
Petitioner: ██████████

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; 42 CFR 431.200 to 431.250. After due notice, an in-person hearing was held on March 2, 2020 from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Karina Littles, Eligibility 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 ██████████ 2019, Petitioner submitted an application for cash assistance on the basis of a disability.
2. The Disability Determination Service (DDS) initiated a medical determination of Petitioner's alleged disability.
3. In ████████ 2019, DDS sent Petitioner a Work History Report and request for information regarding her self-employment through a work activity report. Petitioner was instructed to complete the forms and return them to DDS.
4. On ██████████ 2019, and ██████████, 2019, DDS sent Petitioner a request for information, specifically a Function Report/Activities of Daily Living form that she was to complete and return within 15 days. Petitioner was informed that a failure to

return the completed form within 15 days could result in the denial of her claim. (Exhibit A, pp. 211-225,256-268)

5. On [REDACTED], 2019, DDS sent Petitioner a Work History Report, a Third-Party Function Report/Activities of Daily Living form, and a Function Report/Activities of Daily Living form that she was instructed to have completed and returned within 15 days. Petitioner was informed that a failure to return the completed forms within 15 days could result in the denial of her claim (Exhibit A, pp. 169-209)
6. On [REDACTED], 2019 and [REDACTED], 2019, DDS sent Petitioner Notice of Information Needed letters, instructing her to return the requested information (Work History Report, Activities of Daily Living and Third-Party Activities of Daily Living) within the next 10 days, as this was the second time DDS had contacted Petitioner. Petitioner was informed that a failure to respond in a timely manner would result in the denial of her application. Copies of the blank forms were resent to Petitioner for completion. (Exhibit A, pp. 108-168)
7. On [REDACTED] 2019, [REDACTED] 2019, and [REDACTED], 2019, DDS continued to send Petitioner letters and notices requesting information and instructing Petitioner to submit the required Work History Report, Activities of Daily Living and Third-Party Activities of Daily Living. (Exhibit A, pp. 38-107)
8. DDS also made several attempts at telephone contact with Petitioner throughout the application process to inform her that the requested information had not been received. In [REDACTED] 2019, Petitioner reported that she returned the requested forms but was informed that they were not received. Petitioner was instructed to resubmit the forms. (Exhibit A, pp. 313-322)
9. DDS made various follow-up phone calls to Petitioner's telephone number of record, as well as to her designated contact Falusic Ashford, advising that a failure to cooperate with returning the requested information would result in the denial of the claim. (Exhibit A, pp. 313-322)
10. On or around [REDACTED], 2019, the DDS found Petitioner not disabled. The DDS determined that Petitioner failed to complete and return the Work History Report, the Activities of Daily Living, and the Third-Party Activities of Daily living forms as requested, despite multiple calls and request letters. The DDS concluded that due to Petitioner's failure to cooperate, there was insufficient evidence to evaluate her application for SDA. (Exhibit A, pp. 8-32)
11. On [REDACTED], 2019, the Department sent Petitioner a Notice of Case Action, advising her that her SDA application was denied based on DDS' findings. (Exhibit A, pp. 5-6)
12. On [REDACTED], 2019, Petitioner requested a hearing disputing the denial. (Exhibit A, pp. 3-4)

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.

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 (April 2018), 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. If requested or instructed, the individual must provide information about their education and training, work experience, and daily activities among other information. 20 CFR 416.1512(a)-(b). In some situations, a determination may not be made because the case record is insufficient, as it does not contain all of the information needed. A request may be made for the individual to provide more information in order to resolve the insufficiency. If there is a failure to submit evidence that is needed and requested, a decision will be made based on the information available. 20 CFR 416.1516;20 CFR 416.1520b.

In the present case, in connection with the [REDACTED] 2019 SDA application, Petitioner was instructed to complete and return required forms, including the Activities of Daily Living, Third-Party Activities of Daily Living, and Work History Report. The Department testified that because Petitioner failed to return the requested information despite being given multiple opportunities to do so over several months, the DDS concluded that there was insufficient evidence to make a disability evaluation. The Department sent Petitioner a Notice of Case Action on [REDACTED], 2019, advising her that the SDA application was denied based on the DDS findings.

At the hearing, Petitioner initially confirmed receiving the requested forms from DDS and testified that she completed and timely returned her own Activities of Daily Living form. Petitioner testified that her mother was to complete the Third Party Activities of Daily Living form but was out of town when the form was sent. Petitioner testified that when her mother returned, the Third Party Activity of Daily Living form was submitted. Petitioner initially testified that the Third Party form and Work History Report were submitted late, but the exact date of their submission was unknown. Petitioner later testified that she did not receive all of the requests for information from DDS, but seemed to be aware that the documents were required to be submitted within ten days. Later in the hearing, Petitioner stated that only the Third Party form was submitted late but the Work History Report and her own Activities of Daily Living form were submitted on time. The dates of submission remained unknown, however, Petitioner indicated the documents were sent via mail. There were no copies of the documents presented by Petitioner and no mail receipts offered for review. Petitioner provided conflicting and inconsistent testimony throughout the hearing with respect to her receipt and submission of the requested information. At one point, Petitioner indicated that her mother's Third Party form was submitted in [REDACTED] 2020 and at another point during the hearing, Petitioner suggested that requested forms were returned to DDS in [REDACTED] 2019, before Christmas. It was unclear based on Petitioner's testimony when she submitted the information and what information was submitted.

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. The evidence presented at the hearing showed that despite being given multiple opportunities, Petitioner failed to submit requested information to DDS as required.

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], 2019 SDA application.

DECISION AND ORDER

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



Zainab A. Baydoun
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

ZB/tm

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Dora Allen
14061 Lappin
Detroit, MI 48205

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc: SDA: L. Karadsheh
AP Specialist (4) Wayne