



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: September 26, 2019  
MOAHR Docket No.: 19-008032  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]  
Respondent: MDHHS

**ADMINISTRATIVE LAW JUDGE:** Vicki L. 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; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 27, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Hearing Facilitator Candice Benns. Ms. Benns testified on behalf of the Department. The Department submitted 427 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. On December 1, 2018, Petitioner filed a Redetermination for SDA benefits, alleging continuing disability. [Dept. Exh. 11].
2. On July 2, 2019, the Medical Review Team denied Petitioner's SDA application indicating Petitioner was capable of performing other work. [Dept. Exh. 11-17].
3. On July 18, 2019, the Department issued a Notice of Case Action informing Petitioner his application for SDA had been denied. [Dept. Exh. 10-12].

4. On July 25, 2019, Petitioner submitted a Request for Hearing contesting the denial of SDA. [Dept. Exh. 4-5].
5. On August 27, 2019, Petitioner was unable to name a medical diagnosis as the basis of his disability claim during the hearing in the above-captioned matter. Petitioner stated numerous times that since he was low income, he might need someone to help him if he had a disagreement on the job that he was disabled. Petitioner referred to services at Michigan Rehabilitation Services (MRS) and the possibility of a janitorial job. [Testimony of Eziell Patterson Jr., 8/27/2019].
6. Petitioner is diagnosed with dependent personality disorder, rule out mild Asperger's and a mild adjustment disorder managed with medication.
7. On March 20, 2019, Petitioner was seen by Internal Medicine on behalf of the Department. Petitioner stuttered throughout the history taking, would not answer questions and at times had an inappropriate affect with laughing in between. He complained of right-hand pain, right leg pain particularly in the right knee, chronic persistent back pain and depression. On examination, digital dexterity was intact. Petitioner was able to open a jar with either hand, pick up a coin and pen and print his name without difficulty. He got on and off the examination table with no problems. His gait appeared normal and he was able to do tandem, tiptoe and heel walking with no difficulty. Petitioner was able to bend, stoop and squat to 80% with some complaints of back discomfort. Straight leg raising was 70 degrees on the right and 80 degrees on the left in recumbent position with some complaints of knee, leg and back pain. Petitioner was assessed with stuttering, right hand pain with presence of 1 cm nodular mass in the palm of the right hand at the level of the second metacarpal bone with some tenderness, chronic back pain probably secondary to degenerative disc disease in the spine but no radiculopathy, probably arthritis of the right knee joint on physical exam and depression. [Dept. Exh. 145-148].
8. On June 18, 2019, Petitioner underwent a mental status examination on behalf of the Department. He complained of disability due to leg and back pain, sinusitis and depression. The psychologist found that Petitioner's history was consistent with a mild adjustment disorder managed with medication, as well as a personality with dependent features and possible mild Asperger's making it difficult for Petitioner to develop and maintain long-term intimate relationships. The psychologist opined that he was not presenting with any problems in the areas of working memory or concentration and he should be able to engage in routine work-related activities at a sustained pace. [Dept. Exh. 124-126].

### **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. 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. 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**.

VA/nr



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Vicki L. Armstrong  
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 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**

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**Petitioner**

