



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: November 13, 2019  
MOAHR Docket No.: 19-009869  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Landis Lain

### **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 November 6, 2019, from Lansing, Michigan. The Petitioner, Demetria Evans, was represented by herself. The Department of Health and Human Services (Department or Respondent) was represented by I. McGowan, Eligibility Specialist.

Respondent's Exhibit A pages 1-23 were admitted as evidence.

### **ISSUE**

Did the Department properly deny Petitioner's application for State Disability Assistance (SDA)?

### **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 [REDACTED], 2019, Petitioner filed an application for Social Security Disability with the Social Security Administration.
2. On [REDACTED], 2019, Petitioner filed an application for SDA claiming disability with the Department.
3. On August 27, 2019, the SDA application was denied based upon the Disability Determination Services Determination (DDS) that Petitioner provided insufficient evidence of disability.

4. On August 27, 2019, the Department sent Petitioner a Notice of Case Action notifying Petitioner that her application for SDA cash assistance was denied indicating that Petitioner has not established that she is aged, blind, disabled, under 21, pregnant, or parent/caretaker relative of a dependent child; nor disability/blindness determination made by DDS.
5. On September 10, 2019, the Michigan Office of Administrative Hearings and Rules received a Request for Hearing to contest the Department's negative action.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program. To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261, page1

In this case, Petitioner testified that she was determined able to work at some point. She attempted to work and then was unable to work. Her Attorney told her to get updated medical information. Petitioner's medical impairments are alcoholic cirrhosis, congestive heart failure, hypertension and right knee pain. (Page 15)

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 did not act in accordance with Department policy when it determined that Petitioner provided insufficient evidence of disability pursuant to 20 CFR 404.1520b. There were no

treatment notes attached to this packet of information. Thus, the Administrative Law Judge did not have adequate documentation upon which to make a determination of disability.

Petitioner testified that she has several impairments but did not provide additional documentation of such at the hearing. Her testimony was insufficient to establish disability. Claimant has submitted insufficient objective medical evidence that she lacks the residual functional capacity to perform. Some other less strenuous tasks than in her prior employment, or that she is physically unable to do light or sedentary work tasks if demanded of her. Claimant failed to provide the necessary objective medical evidence to establish that she has a severe impairment, or combination of impairments, which prevent her from performing any level of work for a period of 90 days.

The caseworker who originally worked on this file has retired. No one from the Department with personal knowledge of what documents were considered in the making the determination was present at the hearing.

The Department provided only case development sheets, but no actual medical documentation at the hearing. The Department has not provided this Administrative Law Judge the complete medical documentation, submitted by Petitioner, in support of her allegations of disability. The Department has not established by the necessary competent, material and substantial evidence on the record, that it was acting in compliance with Department policy, when it determined that Petitioner had not provided sufficient evidence of disability to establish that she meets the requirements for State Disability Assistance eligibility. The Department's determination cannot be upheld.

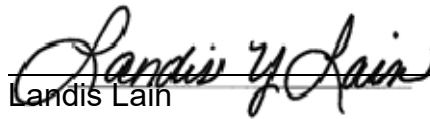
**DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's application for SDA to the date of denial.
2. Allow Petitioner to submit medical documentation and redetermine Petitioner's eligibility for SDA.

LL/nr



Landis Lain  
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**

Richard Latimore  
4733 Conner  
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48215

Wayne 57 County DHHS- via electronic  
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L. Karadsheh- via electronic mail

**Petitioner**

