



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
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SHERISSE LINEBARGER
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Date Mailed: August 30, 2023
MOAHR Docket No.: 22-006435
Agency No.: 102524023
Petitioner: Sherisse Linebarger

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, a telephone hearing was held on June 28, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. Petitioner elected to proceed with the hearing without the presence and representation of her Authorized Hearing Representative (AHR) of record, Sharon Rossiter. The Department of Health and Human Services (Department) was represented by Dania Ajami, Lead Worker and Kimberly Williams, Eligibility Specialist.

Exhibit A, pp. 1-85 and Exhibit B, pp. 1-2 were admitted into the record as evidence on behalf of the Department.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. On June 29, 2023, Petitioner submitted additional records (41 pages total) which were received, marked, and admitted into evidence as Exhibit 1. On July 11, 2023, Petitioner submitted additional records (12 pages total) which were received, marked, and admitted into evidence as Exhibit 2. On July 20, 2023, Petitioner submitted additional records (3 pages total) which were received, marked, and admitted into evidence as Exhibit 3. The record was subsequently closed on July 28, 2023, and the matter is now before the undersigned for a final determination on the evidence presented.

ISSUE

Did the Department properly determine that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program for the time period of January 2022, through June 2022?

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 January 13, 2022, Petitioner submitted an application seeking cash assistance benefits on the basis of a disability.
2. On or around October 6, 2022, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program. (Exhibit A, pp. 45-59)
3. On or around October 11, 2022, the Department sent Petitioner a Notice of Case Action denying her SDA application based on DDS' finding that she was not disabled. (Exhibit A, pp. 81-85)
4. On or around November 1, 2022, Petitioner submitted a timely written Request for Hearing disputing the Department's denial of her SDA application. (Exhibit A, p. 1)
5. Petitioner alleged disabling impairments resulting from a motor vehicle accident in May 2001 and other incidents that followed. Petitioner alleged disabling impairments due to low back pain with radiculopathy, lumbar disc herniations, complex tears of both the medial and lateral menisci of the right knee, closed head injury/severe brain trauma, stomach surgery, chronic headaches and memory loss, post-traumatic stress disorder (PTSD), anxiety, and depression.
6. As of the hearing date, Petitioner was 49 years old with a September 13, 1973, date of birth; she was 5'1" and weighed 151 pounds.
7. Petitioner's highest level of education is 11th grade. Petitioner did not receive a high school diploma or GED. Petitioner has reported employment history of work as a certified nursing assistant and in janitorial services. Petitioner has reportedly not been employed since her accident in 2001.
8. On or around June 22, 2022, Petitioner submitted an application/claim for Supplemental Security Income (SSI) with the Social Security Administration (SSA) based on a disability. The SSA found Petitioner disabled as of March 1, 2022, in connection with her June 22, 2022, SSI application. Petitioner was approved for SSI and received back payments of SSI benefits for the time period from July 1, 2022, through May 31, 2023, and monthly SSI benefits from June 1, 2023, ongoing. (Exhibit B; Exhibit 1)
9. Because Petitioner was found disabled by the SSA and approved for SSI with payments beginning July 1, 2022, this Hearing Decision will address Petitioner's SDA eligibility from the application date of January 13, 2022, through June 30, 2022.

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) due to disability or blindness, Retirement Survivors and Disability Insurance (RSDI) due to disability or blindness, or Medical Assistance (MA) benefits based on disability or blindness, among other criteria. BEM 261, pp. 1-2. 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 (RFC) 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).

In this case, the Department denied Petitioner's January 13, 2022, SDA application based on the October 6, 2022, finding by DDS that Petitioner was not disabled. According to the Medical-Social Eligibility Certification and the Disability Determination Explanation, DDS found that Petitioner was capable of performing other work pursuant to 20 CFR 416.920(a)(4) and 20 CFR 416.920(g). The DDS determined that based on her RFC and vocational factors, Petitioner maintained the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a). Thus, Petitioner was found not disabled at Step 5 in the above referenced evaluation.

At the hearing, it was established that on or around June 22, 2022, Petitioner submitted an application/claim for Supplemental Security Income (SSI) with the Social Security Administration (SSA) based on a disability. According to the State Online Query (SOLQ) presented by the Department and the Notice of Award presented by Petitioner, the SSA found Petitioner disabled as of March 1, 2022, in connection with her June 22, 2022, SSI application. Petitioner was approved for SSI and received back payments of SSI benefits from July 1, 2022, through May 31, 2023, as well as monthly SSI benefits from June 1, 2023, ongoing. (Exhibit B; Exhibit 1). Therefore, because Petitioner was found disabled by the SSA and approved for SSI with payments beginning July 1, 2022, this Hearing Decision will address Petitioner's SDA eligibility from the application date of January 13, 2022, through June 30, 2022.

Petitioner alleges exertional and nonexertional limitations due to her impairments. The medical evidence presented during the hearing and in response to the Interim Order was thoroughly reviewed. A thorough review of Petitioner's medical records supports Petitioner's testimony regarding the severity of her impairments. Based on a thorough review of Petitioner's medical records and in consideration of the evidence presented from Petitioner's treating physicians, which included results of MRI and X-ray testing of Petitioner's spine and right knee, coupled with the SSA determination finding Petitioner disabled as of March 1, 2022, with respect to Petitioner's exertional limitations, it is found, based on a review of the entire record, that Petitioner maintained the physical capacity to perform less than sedentary work for the time period of January 13, 2022, through June 30, 2022. Additionally, Petitioner records and testimony indicate that she suffers from symptoms associated with major depressive disorder, PTSD, anxiety, bipolar disorder, panic disorder, and sleep disturbance. (Exhibit A; Exhibit 3). Thus, Petitioner has mild to moderate limitations in her ability to understand, remember, or apply information; in her ability to interact with others; in her ability to concentrate, persist, or maintain pace and in her ability to adapt or manage oneself.

The Department has failed to present evidence of a significant number of jobs in the national and local economy that Petitioner has the vocational qualifications to perform in light of her RFC, age, education, and work experience. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

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 Petitioner disabled for

purposes of the SDA benefit program from the date of application, through June 30, 2022.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Reregister and process Petitioner's January 13, 2022, SDA application to determine if all the other non-medical criteria are satisfied from the date of application through June 30, 2022, and notify Petitioner of its determination; and
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified from the date of application through June 30, 2022.

ZB/ml



Zainab A. Baydoun
Administrative Law Judge

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

Via Electronic Mail:

DHHS

Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
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Interested Parties

BSC4
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Via First Class Mail:

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