

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2009-16361

Issue No.: 2009/4031

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

June 1, 2009

Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was conducted from Clinton Township, Michigan on Monday, June 1, 2009. The Claimant appeared and testified, along with [REDACTED], [REDACTED], and [REDACTED]. The Claimant was represented by [REDACTED] of [REDACTED]. [REDACTED] appeared on behalf of the Department. At the Claimant's request, the record was extended to allow for the submission of additional medical records.

The additional records were received, reviewed, and entered in to the record as Claimant Exhibits A through D. This matter is now before the undersigned for a final determination.

ISSUE

Whether the Department properly determined that the Claimant was not disabled for purposes of Medical Assistance ("MA") and State Disability Assistance ("SDA") programs?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant submitted applications for public assistance seeking Medical Assistance (“MA-P”) and State Disability Assistance (“SDA”) benefits on October 15, 2008, November 17, 2008 and November 25, 2008.
2. On October 29, 2008, the Medical Review Team (“MRT”) approved the Claimant’s SDA benefits but denied the MA-P finding the Claimant’s impairment(s) lacked duration of 12 months or longer. (Exhibit 1, p. 78)
3. On November 3, 2008, the Department sent an Eligibility Notice to the Claimant informing him that his MA-P benefits were denied. (Exhibit 2)
4. The Claimant’s SDA benefits were scheduled for review in December of 2008.
5. On November 26, 2008, the MRT determined the Claimant was not disabled for purposes of the MA-P and no longer eligible for SDA benefits. (Exhibit 1, p. 125)
6. On January 9, 2009, the Department sent an Eligibility Notice to the Claimant informing him that he was found not disabled.
7. On January 28th and 29th, the Department received the Claimant’s written Requests for Hearing. (Exhibit 3)
8. On March 27, 2009, the State Hearing Review Team (“SHRT”) determined the Claimant was not disabled finding the impairment(s) lacked duration. (Exhibit 4)
9. The Claimant’s alleged physical disabling impairment(s) are due to T-cell lymphoma, abdominal pain, colitis, and neutropenia.
10. The Claimant has not alleged any mental disabling impairment(s).

11. At the time of hearing, the Claimant was 25 years old with a [REDACTED] birth date; was 5'6" in height; and weighed 125 pounds.
12. The Claimant is a high school graduate with some college and has a work history as a prep cook, stage hand, and as an apprentice electrician.
13. The Claimant's impairment(s) have lasted, or are expected to last, continuously for a period of 12-months or longer.

CONCLUSIONS OF LAW

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services ("DHS"), formally known as the Family Independence Agency, pursuant to MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a) The person claiming a physical or mental disability has the burden to establish it 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 ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913 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, is insufficient to establish disability. 20 CFR 416.929(a)

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3) The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2)

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1) The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need 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) If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four.

20 CFR 416.920(a)(4); 20 CFR 416.945 Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1) An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a)(4) In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv) In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a) An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a) The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6)

In addition to the above, when evaluating mental impairments, a special technique is utilized. 20 CFR 416.920a(a) First, an individual's pertinent symptoms, signs, and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1) When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2) Functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2) Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality is considered. 20 CFR 416.920a(c)(1) In addition, four broad functional areas

(activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of functional limitation. 20 CFR 416.920a(c)(3) The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4) A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

After the degree of functional limitation is determined, the severity of the mental impairment is determined. 20 CFR 416.920a(d) If severe, a determination of whether the impairment meets or is the equivalent of a listed mental disorder. 20 CFR 416.920a(d)(2) If the severe mental impairment does not meet (or equal) a listed impairment, an individual's residual functional capacity is assessed. 20 CFR 416.920a(d)(3)

As outlined above, the first step looks at the individual's current work activity. An individual is not disabled regardless of the medical condition, age, education, and work experience, if the individual is working and the work is a substantial, gainful activity. 20 CFR 416.920(a)(4)(i) In the record presented, the Claimant is not involved in substantial gainful activity therefore is not ineligible for disability under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b) An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR

916.920(a)(4)(ii); 20 CFR 916.920(c) Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b) Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting.

Id. The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985) An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985)

In the present case, the Claimant alleges physical disability due to T cell lymphoma, abdominal pain, colitis, and neutropenia. In support of his claim, older medical records were submitted to include the [REDACTED] hematopathology report based on the Claimant's bone marrow confirmed marked t-cell lymphoproliferation. In 2006, the Claimant had his spleen removed.

On [REDACTED], the Claimant was treated at the hospital for a wound infection.

On [REDACTED], the Claimant underwent a colonoscopy with biopsy which revealed ulcers “scattered throughout the colon.”

On [REDACTED], the Claimant presented to the hospital with complaints of right lower quadrant abdominal pain. The Claimant was positive for chronic neutropenia and T-cell lymphoma and was discharged on [REDACTED] [REDACTED] against medical advice.

On [REDACTED] [REDACTED], the Claimant presented to the hospital with complaints of increasing abdominal pain. The Claimant underwent a definitive surgical resection and was subsequently intubated and placed on a ventilator. The surgical pathology report regarding the resected segment of colon, which was positive for Salmonella infection, found acute hemorrhagic colitis, ischemic type, with necrosis of the cecal wall and serositis. The Claimant remained in the hospital until [REDACTED].

On [REDACTED], a Medical Examination Report was completed on behalf of the Claimant. The current diagnoses were abscessed small bowel and T-cell lymphoma. The Claimant was listed in stable condition but with less than sedentary work restrictions. The Claimant was found unable to meet the needs in his home.

On this same date, a CT of the abdomen and pelvis revealed bilateral small pleural effusions, right percutaneous drain tube in position along with gallbladder sludge.

On [REDACTED], the Claimant attended a follow-up appointment where he was found to have aches and pain but overall was improving.

On [REDACTED], the Claimant’s D.O. wrote a letter indicating that reversal of the Claimant’s colostomy in the near future was likely.

On [REDACTED], a Medical Examination Report was completed by the surgeon on behalf of the Claimant. The currently diagnosis was ileostomy which would result in disability

for approximately 3 months after the surgery. The Claimant was on less than sedentary restrictions with no mental limitations noted.

A medical examination report was completed on behalf of the Claimant. The current diagnosis was listed as colostomy (July) due to perforation of colon. The Claimant was placed on less than sedentary restrictions.

On this same date, the Claimant's treating Hematologist completed a Medical Examination Report. The Claimant's current diagnosis was chronic neutropenia. The Claimant was in stable condition with no physical limitations noted.

On [REDACTED], the Claimant was admitted to the hospital with complaints of abdominal pain along with swelling and pain at the incision site from the July surgery. On [REDACTED], a CT of the Claimant's abdomen and pelvis found a partial colectomy/colostomy with no bowel obstruction. The Claimant was discharged on [REDACTED] at his request which was against medical advice. The discharge diagnosis was abdominal wall abscess.

On [REDACTED], a Medical Examination Report was completed by the surgeon on behalf of the Claimant. The current diagnosis was ileostomy from necrotic cecum. Similar to the [REDACTED] Medical Examination Report, the Claimant was on less than sedentary restrictions.

On [REDACTED], a Medical Examination Report was completed by the Claimant's treating physician listing the current diagnosis as chronic neutropenia with no limitations documented.

On [REDACTED], a Medical Examination Report was completed on behalf of the Claimant. The current diagnosis was colostomy due to perforation of the colon. The Claimant was limited to less than sedentary restrictions.

On [REDACTED], the Claimant underwent a colonoscopy without incident. The following day, the Claimant's colostomy was reversed without complication.

On [REDACTED], the surgical pathology report of the portion of the bowel documented chronic inflammation consistent with colostomy stoma.

On [REDACTED], the Claimant received emergency treatment resulting in the delay in closing the Claimant's wound however it was unclear exactly what the treatment was for because only the patient discharge instructions were submitted.

On [REDACTED] and [REDACTED], the Claimant's incision was documented as healing.

On [REDACTED], the Claimant presented to the emergency room with complaints of mouth infection and pain, and vomiting. The Claimant was transferred to another hospital due to his neutropenia. No further records were submitted regarding this hospitalization.

On [REDACTED], the Claimant attended a follow-up appointment where it was noted that his incision was almost healed.

On [REDACTED], the Claimant's treating physician completed a disability note on behalf of the Claimant stating that due to ischemic colitis and slow prognosis, the Claimant would be unable to return to work for a period of up to 12 months.

On this same date, the Claimant attended a follow-up appointment which documented right groin pain, possibly a hernia.

On [REDACTED], the Claimant was treated for a skin abscess/boil.

On [REDACTED], the Claimant attended a follow-up appointment noting that he was continuing to heal.

On [REDACTED], the Claimant attended a follow-up appointment where the Claimant's incision was found to be draining intermittently but otherwise doing well.

On [REDACTED], a CT of the Claimant's abdomen and pelvis revealed multiple probable lymphomas throughout the anterior abdominal wall with some choleliths and ostomy.

On [REDACTED], the Claimant attended a follow-up appointment where it was noted that he was doing well but on antibiotics.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Claimant has presented medical evidence establishing that he does have some physical and mental limitations on his ability to perform basic work activities. The medical evidence has established that the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Claimant has alleged physical disabling impairments due to T-cell lymphoma, abdominal pain, colitis, and neutropenia.

Listing 5.00 discusses adult digestive system impairments. Disorders of the digestive system include gastrointestinal hemorrhage, hepatic (liver) dysfunction, inflammatory bowel disease, short bowel syndrome, and malnutrition. 5.00A These symptoms may lead to complications, such as obstruction or may be accompanied by manifestations in other body systems. *Id.* Medical documentation necessary to meet the listing must record the severity and

duration of the impairment. 5.00B The severity and duration of the impairment is considered within the context of the prescribed treatment. 5.00C1 Side effects of prescribed treatment is also evaluated. 5.00C2, 3 Surgical diversion of the intestinal tract, including ileostomy and colostomy, does not preclude any gainful activity if an individual is able to maintain adequate nutrition and function of the stoma. 5.00E4 If adequate nutrition is not maintained, weight loss due to any digestive disorder despite continuing treatment is considered. *Id.*, 5.08 Weight loss with BMI of less than 17.5 calculated on at least two evaluations at least 60 days apart within a consecutive 6-month period satisfies Listing 5.08 Involuntary weight loss of at least 10 percent from baseline, as computed in pounds, kilograms, or BMI, present on at least two evaluations at least 60 days apart satisfies 5.06B.

Listing 13.00 discusses malignant neoplastic diseases. This listing is used to evaluate all malignant neoplasms, except certain neoplasms associated with human immunodeficiency virus (“HIV”) infection. 13.00A Origin of the malignancy, extent of involvement, duration/frequency/response, and effects of post-therapeutic residuals are factors of consideration. 13.00B(1)-(4) T-cell lymphoblastic lymphoma is evaluated under 13.06 which provides:

- A. ...Consider under a disability until at least 24 months from the date of diagnosis or relapse, or at least 12 months from the date of bone marrow or stem cell transplantation, whichever is later. Thereafter, evaluate any residual impairment(s) under the criteria for the affected body system.

In the record presented, the objective medical records document extensive in-patient and out-patient treatment for T-cell lymphoma, chronic neutropenia, abdominal pain, and colitis. The records document the Claimant’s involuntary weight loss from 160 pounds to approximately 120 which reflects a 25% weight reduction. In July 2008, the Claimant underwent a resection

with resulting infection. Subsequently, the colostomy was reversed (January 2009) however, as of May the Claimant was still being treated with antibiotics due to infection. Ultimately, the Claimant's impairment may meet a listing within 5.00 and/or 13.00 however the objective medical records are insufficient to meet the intent and severity requirements therefore the Claimant cannot be found disabled, or not disabled under a Listing. Accordingly, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a)

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv) An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3) Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1) Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3) RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967 Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a) Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves

lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c) An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d) An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e) An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a) In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an

individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty function due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2) The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

The Claimant's prior work history includes employment as a prep cook, stage hand, and apprentice electrician. In light of the Claimant's testimony and in consideration of the Occupational Code, the Claimant's prior work as a prep cook and stage hand is classified as unskilled, light/medium work and the Claimant's apprentice electrician position is considered semi-skilled medium work.

The Claimant testified that he can lift/carry less than 10 pounds; can stand for approximately 1 hour; can walk without difficulty but experiences pain and difficulty in bending/squatting. Several (six) Medical Examination Reports were completed on behalf of the Claimant covering the period from August 2008 through November 2008. Less than sedentary restrictions were imposed. Subsequently, in March of 2009, the Claimant's treating physician opined the Claimant was disabled up to an additional 12 months. If the impairment or

combination of impairments does not limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920 In consideration of the Claimant's testimony, medical records, and current limitations, it is found that the Claimant is not able to return to past relevant work thus the fifth step in the sequential evaluation is required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v) At the time of hearing, the Claimant, a high school graduate with some college, 25 years old thus considered a younger individual for MA-P purposes. Disability is found disabled if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In the record presented, the total impact caused by the combination of medical problems suffered by the Claimant must be considered. In doing so, it is found that the combination of the Claimant's physical and mental impairments have a major effect on his ability to perform basic

work activities. The Claimant was unable to perform the full range of activities for even sedentary work as defined in 20 CFR 416.967(a) due to the nature of the combined limitations. After review of the entire record and in consideration of the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II], it is found that the Claimant is disabled for purposes of the MA-P program at Step 5

The State Disability Assistance (“SDA”) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10 et seq. and Michigan Administrative Code (“MAC R”) 400.3151 – 400.3180. Department policies are found in PAM, PEM, and PRM. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, the Claimant is found disabled for purposes of the Medical Assistance (“MA-P”) program, therefore the Claimant’s is found disabled for purposes of continued SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds the Claimant disabled for purposes of the Medical Assistance program and the State Disability Assistance program.

Accordingly, it is ORDERED:

1. The Department’s determination is REVERSED.
2. The Department shall initiate review of the October 15, 2008 application to determine if all other non-medical criteria are met

and inform the Claimant and his authorized representative of the determination.

3. The Department shall supplement the Claimant any lost benefits he was entitled to receive if otherwise eligible and qualified in accordance with department policy.
4. The Department shall review the Claimant's continued eligibility in March of 2010 in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ishmael Ahmed, Director
Department of Human Services

Date Signed: 10/21/09

Date Mailed: 10/21/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to the Circuit within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CMM/jlg

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