

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: 2009-321
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 26, 2009
Kent County DHS

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 telephone hearing was conducted from [REDACTED] on January 26, 2009. The Claimant appeared and testified. The Claimant was represented by attorney [REDACTED] [REDACTED] appeared on behalf of the Department. At the Claimant's request, the record was extended for further medical evidence to be submitted. The additional evidence was received, reviewed, and forwarded to the State Hearing Review Team ("SHRT") for a disability determination.

On February 11, 2009, the SHRT determined the Claimant was not disabled finding the Claimant capable of performing other work for purposes of the MA-P and SDA programs. The matter is now before the undersigned for a final decision.

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 a public assistance application seeking MA-P and SDA benefits on June 20, 2008.

2. The Department reviewed the Claimant's benefits in September of 2006.

3. On August 28, 2008, the Medical Review Team ("MRT") determined the Claimant was not disabled finding the Claimant's impairment(s) did not prevent employment of 90 days or more for SDA purposes, and found the Claimant capable of performing past relevant work for MA-P purposes. (Exhibit 1, pp. 1, 2)

4. On September 4, 2008, the Department sent an eligibility notice to the Claimant informing her that her MA-P and SDA benefits were denied.

5. On September 8th and again on September 12th, the Department received the Claimant's Request for Hearing protesting the denial of benefits. (Exhibit 2)

6. On October 10, 2008, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 3)

7. The Claimant's alleged physical disabling impairments are due to uncontrolled hypertension, severe acid reflux, chronic nausea and diarrhea, high blood pressure, enlarged heart, and left knee pain.

8. At the time of hearing, the Claimant was 42 years old with a [REDACTED] birth date; was 5' 5" and weighed approximately 168 pounds.

9. The Claimant is a high school graduate whose previous employment includes work as a mail sorter, factory worker, and salesperson.

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) 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) 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)

As previously stated, 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 and last worked in May of 2007. The Claimant is not disqualified from receipt of disability benefits 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 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 disability on the basis of severe acid reflux, chronic nausea and diarrhea, high blood pressure, enlarged heart, and left knee pain. As evidentiary support for the Claimant's impairment(s), some medical records were from a period of time prior to March of 2008 (assuming Retro MA-P). Specifically, in November of 2005 the Claimant was treated at [REDACTED] and was diagnosed with ovarian cysts. On January 15, 2006, the Claimant sought treatment for tail bone pain after slipping on ice while wearing "heels". The sacrum x-ray revealed a possible subtle fracture. The Claimant was given a [REDACTED] 6-pack and a blowup donut to sit on. On March 26, 2006, the Claimant was treated at [REDACTED] for back pain and was diagnosed with right lumbosacral strain. The

Claimant was rechecked for right side pain at [REDACTED] on April 18, 2006. The physician concluded the pain was most likely musculoskeletal and requested a follow-up appointment for one month. X-rays of the Claimant's ribs were normal. On May 3, 2006, the Claimant had a hysteroscopy without complication. On July 11, 2006, the Claimant presented to [REDACTED] due to nausea and vomiting. The etiology was unclear and an ultrasound was ordered. The July 13, 2006 ultrasound revealed gallstones in the gallbladder. As a result, a laparoscopic cholecystectomy was performed on July 28th, without complication. The Claimant sought treatment for the nausea, vomiting and diarrhea on August 22nd and from September 12th through the end of November. The cause of the symptoms was unknown. On February 1, 2007, the Claimant presented to [REDACTED] for treatment of back and neck pain after a fall. The x-ray of the Claimant's spine found no evidence of fracture or any acute process. The Claimant was diagnosed with acute thoracic spasm and discharged in stable condition.

On March 31, 2007, the Claimant was examined at the [REDACTED] due to her nausea, vomiting and diarrhea. The physician diagnosed the Claimant with delayed gastric emptying that appeared to have followed a viral gastroenteritis syndrome. The physician referred the Claimant for [REDACTED] injection.

On April 30, 2007, an upper GI endoscopy was performed which resulted in a diagnoses of a diaphragmatic hernia, gastroparesis, nausea with vomiting. The gastric emptying study was found to be in the normal range, albeit at the low end.

On May 15, 2007, the Claimant sought treatment for right knee pain. The physician noted a possible ligament sprain however no other records/tests were presented. The records document that the Claimant sought medical treatment on August 10th, October 29th, November

7th, and December 6, 2007, for hypertension. The physician's clinical notes document uncontrolled hypertension and a likely yeast infection. The exact etiology of the Claimant's high blood pressure was unknown.

On May 25, 2007, the Claimant presented to [REDACTED] for follow-up treatment from a March 30th treatment for management of gastric emptying which was followed by nausea and vomiting. The Claimant was found to have gastroparesis and gastroesophageal reflux. The physician's notes indicate that the Claimant experienced adverse side-effects due to the medication. Continual tests/procedures were performed on the Claimant for the nausea, vomiting, and diarrhea in June, August and September.

On August 30th, an ultrasound revealed an ovarian cyst.

On September 17, 2007, the Claimant attended a follow-up appointment from May 2007 (see above) regarding chronic nausea and gastroparesis. The physician notes indicate that the Claimant may have had a viral gastroenteritis in July of 2006 which resulted in chronic nausea and postprandial emesis. A cholecystectomy was performed in July of 2006 which, thereafter, the Claimant experienced continual diarrhea. The etiology of the nausea was unknown.

Recent medical records provided that on March 5, 2008, the Claimant sought treatment for a two-day history of vaginal discharge. The Claimant was diagnosed with a yeast infection, uncontrolled hypertension, tobacco abuse, muscle spasms, and headaches.

In March 2008, the Claimant was again evaluated at [REDACTED] for chronic nausea presumed to be from gastroparesis as well as chronic diarrhea and iron deficiency. The various tests/procedures have been inconclusive as to its origin.

On April 17, 2008, the Claimant was examined after complaints of hot flashes and night sweats. The physician documented uncontrolled hypertension, noting a past history of cocaine use. The Claimant was found to be going through menopause.

On April 23, 2008, the Claimant presented to [REDACTED] for a MRA of the renal arteries without contrast due to her uncontrolled hypertension and to rule out renal artery stenosis. The MRA was normal.

On May 31, 2008, the Claimant presented to [REDACTED] with complaints of left knee pain and swelling. An MRI without contrast was completed which ultimately supported the need for surgical intervention. On July 7, 2008, arthroscopy was performed on the Claimant's left knee. A few days later, the Claimant sought treatment for pain and swelling of the left knee. A left knee postoperative hemarthrosis was diagnosed.

On October 16, 2008, the Claimant was treated at [REDACTED] for management of her chronic nausea and vomiting. Although a decision to continue with the pyloric [REDACTED] injection was made, the benefit in light of past treatment was not clear but one of "the very few options left for management of her gastroparesis." The physician notes document that the Claimant's GERD symptoms had worsened despite treatment.

On December 9, 2008, the Claimant was evaluated at [REDACTED] for a 48-hour pH monitoring. The DeMeester score was 39.3 with a normal range being 14.7. The result was found to be markedly abnormal particularly in light that the Claimant was taking twice daily PPI therapy. It was further provided that reflux appeared to occur in all positions- supine, upright, before and after eating." An upper GI endoscopy was also performed where a small hiatus hernia was found.

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 some medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. In addition, the records also document a history of uncontrolled hypertension, left knee pain, chronic nausea and diarrhea. 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 disabling physical impairments due to left knee pain, severe acid reflux, chronic nausea and diarrhea, high blood pressure, and an enlarged heart.. Appendix I, Listing of Impairments, discusses the analysis and criteria necessary to support a finding of a listed impairment.

The Claimant asserts impairments due to, in part, left knee pain. Listing 1.00 defines musculoskeletal system impairments. Disorders of the musculoskeletal system may result from hereditary, congenital, or acquired pathologic processes. 1.00A Impairments may result from infectious, inflammatory, or degenerative processes, traumatic or developmental events, or neoplastic, vascular, or toxic/metabolic diseases. 1.00A Regardless of the cause(s) of a musculoskeletal impairment, functional loss for purposes of these listings is defined as the inability to ambulate effectively on a sustained basis for any reason, including pain associated with the underlying musculoskeletal impairment, or the inability to perform fine and gross

movements effectively on a sustained basis for any reason, including pain associated with the underlying musculoskeletal impairment. Inability to ambulate effectively means an extreme limitation of the ability to walk; i.e., an impairment(s) that interferes very seriously with the individual's ability to independently initiate, sustain, or complete activities. 1.00B2b(1) Ineffective ambulation is defined generally as having insufficient lower extremity function to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of both upper extremities. (Listing 1.05C is an exception to this general definition because the individual has the use of only one upper extremity due to amputation of a hand.) *Id.* To ambulate effectively, individuals must be capable of sustaining a reasonable walking pace over a sufficient distance to be able to carry out activities of daily living. 1.00B2b(2) They must have the ability to travel without companion assistance to and from a place of employment or school. . . . *Id.*

Categories of Musculoskeletal include:

- 1.02 Major dysfunction of a joint(s) due to any cause: Characterized by gross anatomical deformity (e.g. subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:
 - A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively as defined in 1.00B2b; or
 - B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, wrist, hand), resulting in inability to perform fine and gross movements effectively as defined in 1.00B2c

- 1.03 Reconstructive surgery or surgical arthrodesis of a major weight-bearing joint, with inability to ambulate effectively, as defined in 1.00B2b, and return to effective ambulation did not occur, or is not expected to occur, within 12 months of onset.

As stated, the Claimant asserts impairments due in part to left knee pain. The medical evidence presented documents that the Claimant had a left knee arthroscopy in July of 2008. Subsequently, the Claimant was treated for swelling and a hemarthrosis. In order to meet a musculoskeletal listing, the impairment must present a major dysfunction resulting in the inability to ambulate effectively. The Claimant testified that she is unable to attend her household needs or drive, and uses a cane or crutches to walk. Ultimately, the Claimant's alleged impairments of left knee pain may meet or equal a Listed impairment within 1.00 however there was insufficient evidence evidence to find an inability to ambulate effectively. Accordingly, the Claimant has not established that the left knee pain meets or equals an impairment under Listings 1.02 and/or 1.03 thus she cannot be found disabled for purposes of the Medical Assistance program for these impairments.

Listing 4.00 defines cardiovascular impairment. An uncontrolled impairment means one that does not adequately respond to the standard prescribed medical treatment. 4.00A3f In a situation where an individual has not received ongoing treatment or have an ongoing relationship with the medical community despite the existence of a severe impairment, the disability evaluation is based on the current objective medical evidence. 4.00B3a If an individual does not receive treatment, an impairment that meets the criteria of a listing cannot be established. *Id.* Hypertension (high blood pressure) generally causes disability through its effect on other body systems and is evaluated by reference to specific body system(s) affected (heart, brain, kidneys, or eyes). 4.00H1 Hypertension, to include malignant hypertension, is not a listed impairment under 4.00 thus the effect on the Claimant's other body systems were evaluated by reference to specific body parts.

In the record presented, the Claimant was diagnosed with uncontrolled hypertension however the record is devoid of any evidence of any end organ damage (heart, kidney, brain, eyes) as a result of the hypertension. Similarly, there was no evidence of an enlarged heart or any resulting disability. Ultimately, based upon the hearing record, it is found that the Claimant's medical record does not support a finding that the Claimant's physical impairment of hypertension is a "listed impairments" or equivalent to a listed impairment within 4.00.

Listing 5.00 defines digestive system impairments. Disorders of the digestive system include gastrointestinal hemorrhage, hepatic (liver) dysfunction, inflammatory bowel disease, short bowel syndrome, and malnutrition. 5.00A 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 Inflammatory bowel disease ("IBD") includes Crohn's disease and ulcerative colitis. 5.00E1 IBD is documented by endoscopy, biopsy, and other appropriate medically acceptable imaging or operative findings. 5.06A, B 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.

As stated, the Claimant asserts impairment due in part to gastroparesis, gastroesophageal reflux, nausea and diarrhea. Medical evidence presented established that the Claimant has a history of nausea, vomiting, and diarrhea. The Claimant treats at the [REDACTED], and although the Claimant has undergone extensive testing, the causes remain unknown.

Throughout this period, the Claimant was able to maintain adequate nutrition as her BMI remained above 17.5.

Ultimately, based upon the hearing record, it is found that the Claimant's medical record may support a finding that the Claimant's physical impairment(s), or combination of impairment(s), are "listed impairments" or equivalent to a listed impairment within 1.00, 4.00, and/or 5.00; 20 CFR 416.920(a)(4)(iii) According to the medical evidence alone, the Claimant's physical impairments do not meet or equal the intent or severity of the listing requirements thus she cannot be found to be disabled for purposes of the Medical Assistance program. Accordingly, the Claimant's eligibility under Step 4 is considered. 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.*

Over the past 15 years, the Claimant worked as a salesperson whose responsibilities included lifting/carrying material averaging between 10 and 25 pounds; walking, standing, bending, and stooping. Similarly, as a mail sorter, the Claimant was required to stand, walk, bend, stoop, and lift/carry mail bags weighing up to 50 pounds. The Claimant's assembly line

work also required standing and lifting up to 50 pounds. Given these facts, the Claimant's past work history is classified as unskilled, medium work.

The Claimant testified that she can regularly lift/carry approximately 5 pounds; sit for approximately 4 hours and stand for approximately ½ hour; can walk approximately ½ block with assistance; and is able to grip, and grasp. The Claimant further testified and is supported by medical documentation, that she experiences nausea, vomiting and diarrhea on a daily basis. 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 as a salesperson, assembly line worker, or mail sorter therefore the fifth-step in the sequential evaluation process 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 was 42 years old thus considered a younger individual for MA-P purposes. The Claimant is also a high school graduate. 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).

Transferability of skills is most probable and meaningful among jobs in which the same or a lesser degree of skill is required; the same or similar tools and machines are used; and the same or similar raw materials, products, processes, or services are involved. 20 CFR 416.968(d)(2)

In the record presented, the Claimant's residual functional capacity for work activities on a regular and continuing basis does include the ability to meet at least the physical and mental demands required to perform sedentary work. As noted above, sedentary work involves sitting and lifting no more than 10 pounds at time with occasional walking and standing to carry out the job duties. The Claimant is a younger individual and a high school graduate with a history of unskilled work. After review of the entire record and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II) as a guide, specifically Rule 201.27, it is found that the Claimant is not disabled for purposes of the MA-P program.

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. PEM 261, p. 1 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. PEM 261, pp 1 – 2

In this case, there is insufficient evidence to support a finding that the Claimant's impairment has disabled her under the SSI disability standards. Accordingly, it is found that the Claimant is not disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above finds of facts and conclusions of law, finds the Claimant not disabled for purposes of the Medical Assistance program and the State Disability Assistance program.

Accordingly, it is Ordered:

The Department's determination is AFFIRMED.

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

Date Signed: _____

Date Mailed: _____

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

cc:

