#### STATE OF MICHIGAN STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

#### IN THE MATTER OF:



Reg. No:	2011-3097
Issue No:	2009; 4031
Case No:	
Load No:	
Hearing Date:	
January 5, 2011	
Kent County DHS	

### ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

## HEARING DECISION

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notic e, a telephone hearing was held on January 5, 2011. Claimant personally appeared and testified.

## **ISSUE**

Whether claimant meets the di sability criteria for Medica I Assistance (MA-P) and State Disability Assistance (SDA)?

### FINDINGS OF FACT

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

- (1) On July 29, 2010, claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
- (2) On Augus t 20, 2010, the Medi cal Rev iew Team denied c laimant's application stating that claimant c Medical Vocational Rule 202.17.
- (3) On August 30, 2010, the department ca seworker sent claimant notice that his application was denied.
- (4) On October 13, 2010, claimant fil ed a request for a hearing to contest the department's negative action.
- (5) On November 3, 2010, the State Hearing Re view Team again denied claimant's application st ating in its' analy sis and recommendation: the claimant is morbidly obese. He has some limitation of motion of the knee

and spine. Patellar and Achilles reflexes were absent bilaterally. His gait was antalgic. There was no evidenc e of muscle atrophy. He was depressed but was logical and organized. The claimant's impairment's do not meet/equal the intent or severity of a Soc ial Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of sim ple un skilled sedentary work. In lie u of detailed work history the claimant will be returned to other work. Therefore, based on the claimant's vocational profile of a younger individual, limited educat ion and a history of un skilled work, MA-P is denied using Vocational Rule 201.24 as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days.

- (6) The hearing was held on January 5, 2011. At the hearing, claimant waived the time periods and requested to submit additional medical information.
- (7) Additional medical information was submitted and sent to the State Hearing Review Team on January 5, 2011.
- On January 27, 2011, the State Hearing Review Team approved claimant (8) for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits stating in its' analys is and recommendation: the objective medical ev idence does not support the findings of the MRT or SHRT. Based upon the evidence in the file, the claimant would be unable to perform even sedentary exertional ta sks. The claimant's impairments' do not meet/equal the intent or severity of an appr opriate Social Security listing. The medical evidence of record indicates that the claimant isn't capable of performing even a sedentary exertional range of work. MA-P is approved using Vocational Rule 201.00(h) as a guide. Retroactive MA-P was considered in this case and is approved effect ive April 2010. SDA is approved in accordance with PEM 261. This case needs to be reviewed for continuing benefits in January 2010. At review the following needs to be provided: prior medical packet; DHS-49, all hospital and treating source notes and test results. Listin gs 1.02, 1.03, 1. 04, and 11.14 were considered in this determination.
- (9) Claimant is a 37-year-old man w hose bir th date is Claimant is 5'10" tall and weighs 335 pounds. Claimant completed the 11 grade and has no GED. Claimant is able to read and write and does have basic math skills.
- (10) Claimant last worked as an independent contractor truck driver. Claimant has also worked as a chef in a restaurant and doing odd jobs.

(11) Claimant alleges as disabling impairments: degenerative knee disease, pinched nerves, bulging disc at L4 and L5, arthritis, seizures, and leg swelling.

# CONCLUSIONS OF LAW

The State Disability A ssistance (SDA) program which provides financial ass istance for disabled persons is established by 2004 PA 344. The Department of Human Service s (DHS or department) admin isters the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department polic ies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is estab lished by Title XIX of the Social Sec urity Act and is implemented by T itle 42 of the C ode of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Because of the SHRT determination it is not necess ary for the Administrative Law Judge to discuss the issue of dis ability per BAM, Item 600. The department is required to initiate a determination of claimant's financial eligibility for the requested benefits if not previously done.

# DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, decides that the claimant meets the definition of medically dis abled under the Medical Assistance and State Di sability Assistance benefit program as of the July 29, 2010, application date. If there is a retr oactive Medical Assistance application the department should also determine whether or not claimant is eligible for the retroactive Medical Assistance for the months of April, May and June 2010.

Accordingly, the department's decision is REVERSED. The depar tment is ORDERED to initiate a review of the July 29, 2010, Medical Assistance, State Disability Assistance, and retroactive Medical Assistance application if it has not already done so to determine if all other non-medical e ligibility criteria a re met. The de partment shall inform the claimant of a determination in writing.

The department is OR DERED to conduct a medica I review in January 2012. At review the following needs t o be provided: prior medi cal packet; DHS-49, B, D, E, F, G; al I hospital and treating source notes and test results; all cons ultative examinations, including those purchased by the Social Security Administration/Disability Determiantion Service.

Landis Y. Lain Administrative Law Judge for Maura D. Corrigan, Director Department of Human Services Date Signed: <u>February 2, 2011</u>

Date Mailed: February 2, 2011

**NOTICE**: Administrative Hearings may or der a rehearing or reconsideration on either its own motion or at t he request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hear ings will not orde r a rehearing or reconsideration on the Department's mo tion where the final decis ion cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LYL/alc

CC:

