

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201134773
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: July 20, 2011
Oakland County DHS (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 held on July 20, 2011 from Detroit, Michigan. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) benefits on the basis that Claimant is not a disabled individual.

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 2/11/11, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 4/13/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual.
4. On 4/15/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 5/16/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 6/7/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 98-99) based, in part, on Vocational-Rule 203.21.
7. As of the date of the administrative hearing, Claimant was a 50 year old male (DOB 8/11/60) with a height of 6'2 ½ " and weight of 198 pounds.
8. Claimant smokes approximately 30 cigarettes per day and has a history of alcohol abuse but currently does not abuse alcohol or any illegal substance.
9. Claimant failed to complete high school but obtained a General Equivalency Diploma.
10. Claimant last received medical coverage in 2/2011 when he was released from prison.
11. Claimant claimed to be a disabled individual based on impairments of depression, degenerative disc disorder and arthritis.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

The undersigned will refer to the DHS regulations in effect as of 4/2011, the month of the DHS decision which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged

(65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories. It was not disputed that Claimant's only potential category for Medicaid would be as a disabled individual.

Disability is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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 nearly identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden 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 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, are insufficient to establish disability. 20 CFR 416.927.

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The current monthly income limit considered SGA for non-blind individuals is \$1,000.

In the present case, Claimant denied having any employment since the date of the MA application. One of Claimant's psychological examiners noted that Claimant was employed (see Exhibit 5) and working 25-30 hours per week. Unfortunately, this issue was not mentioned during Claimant's hearing. A notation on the back of Claimant's Assistance Application (Exhibit 32), presumably made by Claimant's DHS specialist, stated that Claimant denied any employment. Claimant wrote a supplemental statement denying the employment (see Exhibit 33). Though the undersigned cannot state with certainty that Claimant did not perform employment as of the date of the psychological explanation, the only first-hand evidence the undersigned has concerning the issue is Claimant's testimony denying employment. Based on the presented evidence, it is found that Claimant does not have ongoing employment. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions

- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

In determining whether Claimant's impairments amount to a severe impairment, the undersigned can consider all relevant evidence. The undersigned shall begin the analysis by reviewing Claimant's medical documentation.

Claimant's Assistance Application (Exhibits 13-32) was presented as evidence. Claimant only listed a disability of depression. Claimant made no reference to any physical problems with arthritis or degenerative disc problems. A page from an application dated 8/8/09 was also presented and indicated that Claimant's only impairment was from substance abuse (see Exhibit 12). A third application was presented as evidence (see Exhibits 83-97). The application dated 9/3/10 also only listed depression as a basis for disability.

On 11/15/10, Claimant was psychologically examined (see Exhibits 4-11) by a DHS referred examiner. Claimant specifically objected to some of the examiner's findings including a reference to the number of children fathered by Claimant; the examiner noted Claimant had 10 children but Claimant testified that he fathered only four or five. The examiner concluded that: Claimant's mental ability to relate to others was within normal limits; Claimant's ability to understand, remember and carry-out simple and complex instructions was not impaired; Claimant's mental ability to maintain attention, concentration, persistence and pace to perform routine tasks was not impaired and Claimant's ability to withstand stress and pressures associated with working was not impaired.

The examiner found Claimant had a global assessment function (GAF) score of 72. The Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM-IV) describes GAF as a scale used by clinicians to subjectively rate the social, occupational, and psychological functioning of adults. A score within the range of 71-80 is representative of a person with "some mild symptoms (e.g., depressed mood and mild insomnia) OR some difficulty in social, occupational, or school functioning (e.g., occasional truancy, or theft within the household), but generally functioning pretty well, has some meaningful interpersonal relationships." Generally, such a score would be highly unrepresentative of a person who is not mentally disabled.

On 8/26/10, Claimant was psychologically examined by his ongoing therapist. The report (Exhibits 42-46) was presented as evidence. Claimant was diagnosed as having "schizo-affective disorder, bipolar". The undersigned had difficulty reading many of the notes made by the examiner though Claimant was scored as having a GAF of 45, the same as his GAF score from the previous year. A score within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job)."

A Mental Residual Functional Capacity Assessment was also presented (Exhibits 44-45). This form listed 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. Claimant was "markedly limited" in 15 of the 20 areas and "moderately limited" in the remaining five. Claimant was considered insignificantly limited in zero of the 20 activities.

Claimant's criminal history was submitted as Exhibits 47-50. It is known that Claimant spent 15 years in prison and recently spent two additional years in prison due to a marijuana-related conviction.

Claimant presented evidence of his daily activities. Claimant specifically stated that he slept "one hour a day", a remarkably low amount, if accurate. Claimant also stated that he sometimes did not eat for days. He stated that his friends and family do his chores for him. Claimant stated he does not go shopping because he has panic attacks. Claimant stated he reads the Bible but does not understand what he reads.

On 12/7/10, Claimant was physically examined (see Exhibits 63-68) based on complaints of bipolar disorder, depression, social anxiety disorder, hypertension, headaches, degenerative disc problems and back pain. Claimant noted not taking any medication for his headaches or for the injuries to his back. Claimant's hypertension was controlled. Claimant had full range of motion in his back despite his complaints. The examiner concluded Claimant's ability to work "should have no limitations".

Claimant was psychologically examined on 12/7/10 (Exhibits 70-73). Claimant was described "at best" as having a "severe antisocial personality disorder". It is not known what the examiner intended by "at best". Claimant's thinking was described as "poorly organized" but showed no signs of cognitive impairment that would prevent Claimant from performing simple routine work activities, if he remained compliant with therapy and medication. Claimant's extensive history in prison and substance abuse were noted as contributors to Claimant's condition. Claimant was assessed as having a GAF of 48-50 with a guarded prognosis.

Claimant testified having many physical limitations. Claimant stated he could only walk approximately one quarter of a mile before his back would prevent further walking. He stated he had bending limitations. He stated he used a cane, but did not use one to attend the administrative hearing. Claimant stated that he has a swollen middle finger that limits him from grasping items. Claimant stated he could only stand approximately for 45 minute periods.

Looking at Claimant's physically-based impairments (arthritis, depression, degenerative disc issues and hypertension) there is insufficient evidence to find that Claimant has a severe impairment. Though Claimant testified that he had several physical limitations, the testimony was unsupported by medical documentation. The undersigned was most persuaded by the 12/7/10 examiner's statement that Claimant had no physical work limitations. It is found that Claimant has no severe impairments that are physically-based.

Looking at Claimant's mental impairments, there is substantially more medical evidence. However, the evidence was quite different in what it concluded.

Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers; Bowen v Commissioner*, 473 F. 3d 742 (6th Cir. 2007). Claimant's treating source for depression was Easter Seals.

Claimant's treating source therapist did not specifically state that Claimant was disabled but on 8/26/10 found Claimant "markedly limited" in 15 of 20 areas of ability and assessed a GAF of 45. The undersigned is not inclined to discount this evidence but the undersigned has concerns about its reliability. A score of 45 was in great contrast with the GAF score of 72 provided by the examination of 11/15/10. A score of 45 was fairly consistent with the GAF score of 48-50 from Claimant's 12/7/10 examination. There was no evidence to believe that Claimant's psychological condition improved dramatically in three months. The difference appears to be one of medical opinion.

The undersigned found the treating source's evidence to be somewhat inconsistent. Claimant's marked limitations on 15 of 20 work activities would tend to be indicative of a

person with substantial mental issues, one who would have a GAF score even lower than 45. The undersigned was also concerned that there was little evidence supporting the GAF score or Claimant's ability to perform work activities. The treating source provided some handwritten statements though most were illegible. The non-treating source examiners attached more detailed, and legible, examination reports. Also, the undersigned does not understand how a person with such marked limitations would be capable of attending community college as Claimant indicated that he has done for more than one semester.

The undersigned is also concerned about the reliability of the report dated 11/15/10. Of the three GAF scores provided, the 11/15/10 examination resulted in a drastically different GAF from the others provided. The examiner's conclusions that Claimant had virtually no cognitive deficiencies was drastically different from that of the other examiners.

The undersigned is also concerned about Claimant's testimony. When the undersigned asked Claimant about depression symptoms, Claimant seemed eager to respond suffering from each, though there is no evidence in the reports for many of the symptoms. For example, Claimant testified that he suffers from hallucinations or delusions. This differs from Claimant's 12/7/10 examiner who indicated Claimant denied delusional experiences or hallucinations. Claimant stated he has suicidal thoughts at the hearing. This again differs from the examiner's conclusions that Claimant denied ever feeling suicidal (see Exhibit 71).

Though the undersigned has doubts whether Claimant is markedly limited in 15 of 20 mental categories of work abilities, there is evidence to support that Claimant has limits in several work-related abilities. Two of three Claimant's examiners found Claimant suffered from multiple disorders and two of three assessed Claimant with a GAF that would indicate serious symptoms. Based on the totality of evidence, the undersigned is inclined to find that Claimant has a severe psychological impairment. The analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If the claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant established a severe impairment based on depression and/or bipolar disorder. Mental impairments are described under listing 12.00. Depression and bipolar disorders fall under affective disorders; the listing reads:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Looking at the above requirements to meet the listing for affective disorder, there is insufficient evidence to support a finding that Claimant met Part C. There is evidence that Claimant has suffered from some affective disorder for two years, has more than a minimal limitation on basic work abilities and symptoms attenuated by medication and/or therapy. However, there is no evidence that Claimant suffered episodes of decompensation. There is also no evidence that an increase in mental demands would cause decompensation; in fact, Claimant's school attendance tends to show Claimant is psychologically capable of the mental demands of employment. There is also no indication that Claimant may only operate in a particularly supportive living environment. It was not disputed that Claimant lives with his daughter, though it was not established that this environment was a psychological necessity for Claimant. One of the examiners noted Claimant previously lived with his mother, thus, Claimant appears to be able to function in multiple living environments.

Looking at Part B, there was insufficient evidence to conclude Claimant was markedly limited in daily activities. Though Claimant's written statements asserted an inability to perform several activities, there was no medical evidence supporting the statements. Claimant seemed to make the statements on the basis of his physical abilities, not his mental abilities.

There was also insufficient evidence of a marked limitation in concentration, persistence or pace for Claimant. Though Claimant's treating source found Claimant markedly limited in all areas, the undersigned is not inclined to rely on these specific conclusions due to the lack of supporting evidence for them. It is found that Claimant failed to meet a listed impairment. Accordingly, the analysis moves to step four.

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 it is determined that a claimant can perform past relevant work. *Id.*

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 (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

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 are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning 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 undersigned has already dismissed the notion that Claimant is disabled based on exertional impairments. The analysis at step four will be limited to Claimant's ability to perform employment despite his non-exertional impairments.

Due to inconsistencies with two of three psychological reports, the undersigned gives the most weight to the conclusions from the report stemming from Claimant's examination dated 12/7/10. The examiner found Claimant could perform employment of "at least simple routine work related activities at a sustained pace". The GAF score given to Claimant of 48-50 would tend to be supportive of such an expectation.

There is no medical examination supporting Claimant is limited in walking or standing. Claimant testified he is capable of lifting 40 pounds. Based on the totality of evidence, it is found that Claimant is capable of performing light work.

Claimant listed zero work history within the last 15 years on one document (see Exhibit 57). Claimant testified that he had a telemarketing job for 2-3 weeks before getting fired. Claimant also stated that he assembled kits for approximately three months in 2008 before losing his job because he entered prison. Claimant stated that his job primarily involved installing batteries in various items.

Based on the totality of evidence, there is little reason to believe that Claimant is not capable of performing his previous employment. Even accepting Claimant's testimony of his physical limitations as accurate, Claimant would be physically able to perform the

relatively sedentary employment of inserting batteries into items. Claimant's psychological limitations are more established but do not seem to be so severe to prevent Claimant from performing his past employment. It is found that Claimant is capable of performing his past employment. Accordingly, it is found that Claimant is not disabled and that DHS properly denied Claimant's application for MA benefits.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 at 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1.

A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

The undersigned already found Claimant to be not disabled for purposes of MA benefits based on a capability of performing past employment. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS properly denied Claimant's application for SDA benefits on the basis that Claimant is not a disabled individual.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied MA and SDA benefits to Claimant on the basis of

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a determination that Claimant was not disabled. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 29, 2011

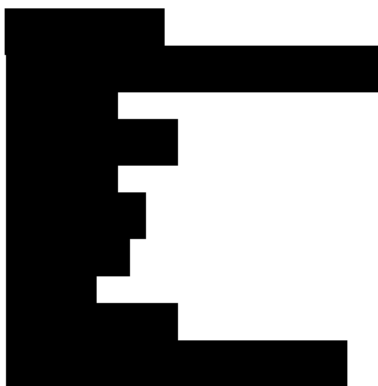
Date Mailed: July 29, 2011

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 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.

CG/hw

cc:



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