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

IN THE MATTER OF:

Reg. No: 2011-35621
Issue No: 2009

[redacted]

[redacted]
Monroe County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on May 19, 2011. After due notice, a telephone hearing was held on August 24, 2011. Claimant personally appeared and testified.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P)?

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 January 28, 2011, Claimant applied for MA-P.

(2) On April 15, 2011, the Medical Review Team (MRT) denied Claimant's MA application stating Claimant is capable of performing other work, pursuant to 20 CFR 416.920(f). (Department Exhibit A, pages 1-2).

(3) On May 11, 2011, the department caseworker sent Claimant notice that his application was denied.

(4) On May 19, 2011, Claimant filed a request for a hearing to contest the department's negative action.

(5) On June 27, 2011, the State Hearing Review Team (SHRT) upheld the denial of MA-P benefits stating Claimant retains the residual functional

capacity to perform a wide range of light work. (Department Exhibit B, page 1).

(6) Claimant has a history of severe osteoarthritis at L3, L4 and L5, degenerative disc disease at T12-L1, L3-L4, L4-L5 and L5-S1, osteoarthritis in C3, C4, C5, C6 and C7, osteophytes anterior at C4, C5, C6 and C7, with disc space narrowing at C3-C4, C4-C5, C5-C6 and is most pronounced at C6-C7.

(7) On February 26, 2007, Claimant's x-ray showed chronic right hip, right sciatica right leg. Severe osteoarthritis at L3, L4 and L5. Osteophytes posterior lateral L2, L3, L4 and L5. Decreased disc space between L3-L4, L4-L5, and L5-S1. Foraminal encroachment at L2-L3 and L3-L4. (Claimant's Exhibit A, page 11).

(8) On February 28, 2007, an MRI lumbar spine without intravenous contrast showed broad based disc protrusion at L5-S1 with associated facet arthrosis and resultant effacement and indentation of the thecal sac anterior leftward, stenosis of the left lateral recess and stenosis of the right lateral recess/foraminal region. Circumferential discovertebral protrusion at L4-L5 with associated ligmentum flavum hypertrophy and facet arthrosis with resultant central canal stenosis and lateral recess/forminal regions. Circumferential discovertebral protrusion at L3-L4 with associated facet arthrosis and ligamentum flavum hypertrophy with resultant effacement and indentation of the thecal sac anterior leftward and stenosis of the left lateral recess/forminal region. Central focal disc protrusion at T12-L1 with resultant effacement and indentation of the thecal sac. Degenerative disc disease at T12-L1, L3-L4, L4-L5 and L5-S1. Remaining levels demonstrate no evidence of posterior disc bulge, protrusion or extrusion. (Claimant's Exhibit A, pages 9-10).

(9) On April 15, 2009, an MRI lumbar spine without intravenous contrast showed degenerative disc disease with broad-based discovertebral protrusion, facet arthrosis and ligamentum flavum hypertrophy at L2-L3, L3-L4, L4-L5 and L5-S1 with resultant stenosis of the central canal, lateral recess/foraminal regions and effacement and compression of exiting nerve root complexes. Central focal disc protrusion at T12-L1 with resultant effacement of the thecal sac. Granulation/inflammatory changes centrally at L5-S1 outer annulus. (Claimant's Exhibit A, pages 6-8, 30-32).

(10) On June 26, 2010, Claimant's MRI LS-Spine without contrast showed there is diffuse narrowing of the AP dimension of the entire lumbosacral spine likely developmental in nature. At T12-L1 there is disc space narrowing present. No focal disc protrusion is seen. No definite central canal compromise or neural foraminal stenosis is seen. The conus medullaris terminates at the L1 level. The L1-L2 disc space level shows

no disc protrusion. No central canal compromise or neural foraminal stenosis is seen. At L2-L3 there is disc space narrowing and diffuse disc bulging present. Degenerative facet change and ligamentum flavum hypertrophy are also present. These contribute to mild central canal stenosis. Mild bilateral foraminal narrowing is seen. The nerve root sleeves exit normally. At L3-L4 disc space narrowing is seen. Diffuse disc bulging is present. Degenerative facet changes are seen. Findings result in moderate central canal stenois. Foraminal stenosis is seen bilaterally but the nerve root sleeves exit normally. At L4-L5 there is Type II endplate degenerative changes present. Disc bulging and posterior osteophyte formation as well as degenerative facet changes are seen. This results in mild central canal stenosis. There is bilateral foraminal stenosis moderate in degree bilaterally. At L5-S1 minimal disc protrusion towards the left of midline results in thecal sac effacement on the left and mild central canal stenosis. There is a small annular tear at this level. There is also lateral disc protrusion and degenerative facet changes towards the right causing severe foraminal stenosis on the right compromise the exiting L5 nerve root on the right. The L5 nerve root on the left is unaffected. (Claimant's Exhibit A, pages 14-15, 33-34).

(11) On October 12, 2010, an x-ray of Claimant's cervical spine showed a reversal cerical lordosis, osteoarthritis in C3, C4, C5, C6 and C7. Osteophytes anterior at C4, C5, C6 and C7. Decreased disc space between C3-C4, C4-C5, and C5-C6. (Claimant's Exhibit A, page 5).

(12) On October 28, 2010, Claimant's MRI C-Spine without contrast showed there is disc space narrowing at the levels of C3-C4, C4-C5, C5-C6 and is most pronounced at C6-C7. Vertebral body heights and alignment are maintained. Examination of C2-C3 reveals no disc herniation, central canal or neural foraminal narrowing. Examination of C3-C4 reveals a combination of right paracentral disc protrusion and osteophytic spurring which does produce mild effacement of the ventral thecal sac on the right. There is a mild degree of central canal narrowing. There is moderate narrowing of the right neural foramen. Examination of C4-C5 reveals diffuse degenerative disc bulge and posterior osteophytic spurring which does efface the ventral thecal sac and does result in a moderate degree of central canal stenosis. There is bilateral moderate neural foraminal narrowing slightly greater on the right than the left. Examination of C5-C6 reveals central and right paracentral disc protrusion and associated posterior endplate spurring. There is more significant effacement of the thecal sac with severe central canal stenosis and mild cord flattening. There is bilateral neural foraminal narrowing which is mild to moderate at this level. Examination of C6-C7 reveals only mild disc bulge without significant effacement of the thecal sac. There is no central canal or neural forminal narrowing. The spinal cord demonstrates normal signal.

No bone marrow signal abnormalities are identified. (Claimant's Exhibit A, pages 12-13, 35-36).

(13) On November 12, 2010, Claimant's surgeon performed a physical exam of Claimant finding he has a normal gait pattern. Reflexes are symmetric, 3+ patellar with 2 beats of clonus, negative Hoffmann's and Babinski. Upper extremity strength is intact. Sensation is grossly intact and positive Spurling's. Plain films of the cervical spine show multilevel cervical spondylosis C4-C5, C5-C6 and C6-C7 with disk height narrowing. MRI of the cervical spine shows evidence of congential narrowing of the canal with very minimal room for the thecal sac from C2 to T1. There is however disk osteophyte complexes in multiple levels with moderate to severe stenosis from right-sided thecal sac compression at C5-C6 as well as bilateral thecal sac compression at C4-C5 due to disc osteophyte complex and right-sided severe foraminal stenosis at C3-C4. C6-C7 shows evidence of a broad-based disc bulge with bilateral foraminal narrowing right greater than left. Assessment and plan: multilevel cervical spondylosis with stenosis; left arm radiculopathy; primarily right-sided cord compression except for at C4-C5 where there is bilateral. At this point, since there is no focal motor or sensory deficits but does have severe stenosis, I will not recommend epidural steroid injections. I will however, have him begin some physical therapy, Medrol Dosepak, anti-inflammatories, soft cervical collar at night, reevaluate in 10 to 14 days. If his symptoms do not improve, we will proceed with a 3-level anterior cervical diskectomy and fusion C4-C5, C5-C6 and C6-C7. (Department Exhibit A, pages 45-46).

(14) On November 23, 2010, Claimant was treated by his surgeon who noted that Claimant has multilevel cervical stenosis C4 through C7 with the moderate to severe stenosis primarily at C5-C6. His symptoms have improved. Neck pain is at 3/10. Arm pain is still severe at 8/10. He states things are getting better with physical therapy and strength and sensation are intact other than minor weakness detected on his left biceps at 4+/5. Continue therapy, antiinflammatories and soft cervical collar. Reevaluate in 4 weeks. (Department Exhibit A, page 44).

(15) On December 22, 2010, Claimant's orthopedic surgeon completed a medical examination of Claimant stating Claimant is doing much better. He states his neck pain is down to 3/10. He does not notice the radicular pain into the arms or the weakness, numbness or balance problem except for some slight left arm paresthesias. No problems with balance and coordination. Assessment and Plan: Severe cervical stenosis C4 through C7 primarily at C5-C6. His arm pain used to be severe at 8/10 but currently, it has significantly improved. "I feel because [patient] does have this significant cervical stenosis that it would be unadvisable for him to continue in a job where he has having constant vibrations and bouncing of

his neck, due to the fact that potentially, this type of future application may lead to progression of his cervical issues and disease. The patient does, however, understand that he may still require surgical intervention even if he is not doing the type of work in the future due to the recurrence of his symptoms and/or changes. The surgeon noted Claimant was improving, and his needs could be met at home. (Claimant's Exhibit A, pages 18-19, 25-26, 43).

(16) On December 22, 2010, Claimant's attending physician diagnosed Claimant with severe degenerative disc disease and severe cervical spinal stenosis and restricted Claimant from lifting no more than 30 pounds with no severe bending or twisting from December 23, 2010 to March 23, 2010. (Department Exhibit A, page 37).

(17) On December 29, 2010, Claimant completed the Activities of Daily Living Form in which Claimant indicated he shared the duty of fixing his own meals with his wife and also fixed meals for his wife. He was eating less as ordered by his doctor. Claimant indicated that he did not do any housework or shopping, however he then wrote that his wife helped him shop. (Department Exhibit A, pages 38-42).

(18) On January 10, 2011, Claimant's chiropractor completed a medical examination of Claimant and diagnosed him with L5 subluxation complex, severe lumbar degeneration and radiculitis. Claimant's chiropractor noted that Claimant's condition was deteriorating had a slight forward antalgia and positive RSLR at 30% and his needs could be met at home. (Claimant's Exhibit A, pages 16-17, 27-28).

(19) On January 17, 2011, a medical exam of Claimant was completed at the Pain Management Center showing Claimant had a normal gait, negative SUB bilaterally, 5/5 strength, no neuralgic deficit/disorder appreciated. It was noted that Claimant's condition was stable and his needs could be met at home. (Claimant's Exhibit A, pages 23-24).

(20) Claimant is a 44 year old man whose birthday is December 28, 1966. Claimant is 6'3" tall and weighs 270 lbs. Claimant completed the eleventh grade and is a journeyman butcher by trade. Claimant last worked in April 2010.

(21) Claimant had applied for Social Security disability at the time of the hearing.

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). 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 Reference Tables Manual (RFT).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, 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 set order is used to determine disability, that being a five-step sequential evaluation process for determining whether an individual is disabled. (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity. (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he/she has demonstrated the ability to engage in SGA. (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe." (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment. 20 CFR 416.929(a).

Medical reports should include –

(1) Medical history.

(2) Clinical findings (such as the results of physical or mental status examinations);

(3) Laboratory findings (such as blood pressure, X-rays);

(4) Diagnosis (statement of disease or injury based on its signs and symptoms). 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these 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. 20 CFR 416.921(b).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect

judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1. (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement, (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA. (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he/she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he/she is disabled.

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

At Step 1, Claimant is not engaged in substantial gainful activity and testified that he has not worked since August, 2010. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, in considering Claimant's symptoms, whether there is an underlying medically determinable physical or mental impairment(s)-i.e., an impairment(s) that can be shown by medically acceptable clinical and laboratory diagnostic techniques-that could reasonably be expected to produce Claimant's pain or other symptoms must be determined. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of Claimant's symptoms to determine the extent to which they limit Claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

At Step 2, the objective medical evidence of record shows Claimant was diagnosed with severe osteoarthritis at L3, L4 and L5, degenerative osteoarthritis at C3, C4, C5, C6 and C7, degenerative disc disease at T12-L1, L3-L4 and L5-S1, osteophytes anterior at C4, C5, C6 and C7 and disc space narrowing at C3-C4, C4-C5, C5-C6 and C6-C7. The finding of a severe impairment at Step 2 is a *de minimus* standard. This Administrative Law Judge finds that Claimant established that at all times relevant to this matter Claimant had back and neck problems which would affect his ability to do substantial gainful activity. Therefore, the analysis will continue to Step 3.

At Step 3 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. This Administrative Law Judge finds that Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

At Step 4, Claimant's past relevant employment was working as a groundskeeper, cutting grass and shoveling and plowing snow. At Step 4, the objective medical evidence of record is not sufficient to establish that Claimant has severe impairments that have lasted or are expected to last 12 months or more and prevent him from performing the duties required from his past relevant employment for 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform other jobs.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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. 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, the burden of proof shifts to the department to establish that Claimant has the residual functional capacity to do substantial gainful activity. The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. See discussion at Step 2 above. Findings of Fact 10, 12-15, 19.

At Step 5, the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least light work duties. Claimant alleges he suffers from back and neck pain. Claimant stated he is in serious pain 24 hours a day, 7 days a week and lives on pain and anti-inflammatory pills. Claimant testified that his doctor had taken him off his job because he was unable to lift.

Claimant's MRI on June 26, 2010, showed mild central canal stenosis at L2-L3, L4-L5 and L5-S1 as well as mild bilateral foraminal narrowing between L2-L3 and minimal disc protrusions at L5-S1. The L5 nerve root on the left is unaffected.

On October 12, 2010, Claimant's MRI C-spine showed the vertebral body heights and alignment were maintained. There was no disc herniation, central canal or neural foraminal narrowing at C2-C3. The examination of C3-C4 revealed a combination of right paracentral disc protrusion and osteophytic spurring which does produce mild effacement of the ventral thecal sac on the right. There was a mild degree of central canal narrowing. An examination of C6-C7 revealed only a mild disc bulge without

significant effacement of the thecal sac. There was no central canal or neural forminal narrowing. The spinal cord demonstrated a normal signal. There were no bone marrow signal abnormalities identified.

Claimant's surgeon performed an initial exam on Claimant on November 12, 2010. Claimant had a normal gait pattern, his reflexes were symmetric and his extremity strength was intact. Claimant's surgeon found that since there were no focal motor or sensory deficits and he did have severe stenosis, epidural steroid injections were not recommended. Claimant was prescribed physical therapy, Medrol Dosepak, anti-inflammatories and a soft cervical to wear at night. If Claimant's symptoms did not improve, a 3-level anterior cervical diskectomy and fusion of C4-C5, C5-C6 and C6-C7 was recommended.

A follow-up was conducted on November 23, 2010. Claimant's symptoms had improved. His neck pain was at 3/10 and he still had severe arm pain at 8/10. Claimant stated things were getting better with physical therapy. His strength and sensation were intact other than minor weakness detected on his left biceps. Physical therapy, anti-inflammatories and the wearing of the soft cervical collar at night was continued.

On December 22, 2010, Claimant was re-evaluated by his surgeon. Claimant stated he was doing much better. He reported he did not notice the radicular pain into the arms or the weakness, numbness or balance problems except with some slight left arm paresthesias. Claimant had no problems with his balance or coordination. The surgeon noted that Claimant was improving and his needs could be met at home.

On January 17, 2011, a medical exam of Claimant was completed. Claimant had a normal gait, 5/5 strength, and no neuralgic defict disorders. The doctor noted Claimant's condition was stable and his needs could be met at home.

Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does establish that Claimant has the residual functional capacity to perform other work. As a result, Claimant is disqualified from receiving disability at Step 5 based upon the fact that the objective medical evidence on the record shows he can perform light work. Under the Medical-Vocational guidelines, an individual approaching advanced age 50 - 54 (Claimant is 50 years of age), with a limited education (Claimant has a GED) and an unskilled work history is not considered disabled pursuant to Medical-Vocational Rule 202.14. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Claimant has cited medical problems, the clinical documentation submitted by Claimant is not sufficient to establish a finding that Claimant is disabled. There is no objective medical evidence to substantiate Claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant was not eligible to receive Medical Assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied Claimant's application for Medical Assistance and retroactive Medical Assistance benefits.

Accordingly, the department's decision is AFFIRMED.

It is SO ORDERED.

/s/
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/8/11

Date Mailed: 9/8/11

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.

VLA/ds