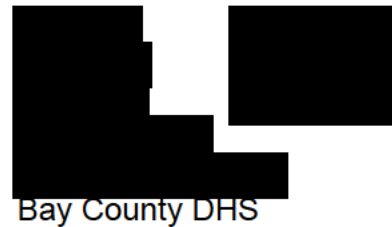


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



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. After due notice, a telephone hearing was held on September 6, 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), Retro-Medicaid 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 April 4, 2011, Claimant filed an application for MA, Retro-MA and SDA benefits alleging disability.
- (2) On May 26, 2011, the Medical Review Team (MRT) denied Claimant's application for SDA stating that Claimant's physical impairment will not prevent employment for 90 days or more. MRT denied Claimant's MA application based on insufficient evidence that Claimant had a severe impairment preventing him from employment for at least 12 months. (Department Exhibit A, pages 1-2).
- (3) On June 3, 2011, the department caseworker sent Claimant notice that his application was denied.
- (4) On June 9, 2011, Claimant filed a request for a hearing to contest the department's negative action.

- (5) On July 6, 2011, the State Hearing Review Team (SHRT) again denied Claimant's application stating Claimant retains the residual functional capacity to perform a wide range of medium unskilled work.
- (6) Claimant alleges he suffers from severe depression, chronic obstructive pulmonary disease (COPD) and asthma.
- (7) On December 8, 2008, Claimant's chest x-ray showed lungs remain somewhat hyperinflated but without change from the patient's previous examination and may reflect an element of chronic airways disease. The lungs are clear. The cardiac silhouette and pulmonary vasculature are within normal limits. Pleural effusion is not evidenced. Impression: Hyperinflated lungs suspicious for an element of chronic airways disease. (Department Exhibit A, page 61).
- (8) On March 30, 2010, Claimant was seen for a check up of his asthma. He reported he has been taking Advair and Spirivia for past 3 months, but stopped when he had no improvement of symptoms. He uses one Albuterol inhaler every 3-7 days. Positive wheezing. Psychiatric noted appropriate affect and social judgment. Prescribed Duonels, Prednisone, Spirivia and Symbicort and advised him to stop smoking. (Department Exhibit A, page 49).
- (9) On August 9, 2010, Claimant complained of nausea and vomiting. Needed refills of Symbicort and Proair. Claimant is under a lot of stress using Albuterol a lot and feeling anxious about that. He has two episodes daily, no belly pain. Claimant is obese and oriented times three. Psychiatric exam is noted he is in appropriate mood and affect, but anxious. Prescribed Phenergan, Zolof, Symbicort and Albuterol and advised to stop smoking and exercise. (Department Exhibit A, page 47).
- (10) On December 6, 2010, Claimant was seen for asthma and anxiety. Reports he is using Albuterol 4-5 times daily. He notes he used the Albuterol less when he quit smoking but is back to 1 pack every 2-3 days. Complained of ineffective control of anxiety symptoms on Zolof. Psychiatric exam noted he was in a good mood, appropriate affect. Prescribed Chantix for smoking cessation and refills for Proair and Symbicort. (Department Exhibit A, page 46).
- (11) On December 30, 2010, Claimant's chest x-ray revealed the cardiac silhouette is normal. Visualized lungs are clear and there is no effusion. Impression: No active disease, or interval changes since December 3, 2008. (Department Exhibit A, page 62, 66).
- (12) On February 10, 2011, Claimant was seen complaining of muscle spasms. Problem areas include rib cage, groin and latissimus muscles. Spasms

occur for no reason and have him in severe pain. Claimant has a history of severe COPD/ashtma with long standing history of smoking. States he quit 3 weeks ago and notes improvement in breathing. No musle tightness or tenderness noted through the shoulders. Psychiatric exam showed Claimant had appropriate affect. Claimant was prescribed Baclofen and instructed to begin a regular program of stretching daily. (Department Exhibit A, page 45).

- (13) On March 17, 2011, Claimant's psychiatrist completed a Mental Residual Functional Capacity Assessment. Claimant was not significantly limited regarding Understanding and Memory. Under Sustained Concentration and Persistence, Claimant's ability to carry out simple, one of two-step instructions, to carry out detailed instructions, to maintain attention and concentration for extended periods, to work in coordination with or proximity to others without being distracted by them, to make simple work-related decisions and to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods was moderately limited while his ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances was markedly limited. Under Social Interaction, Claimant's ability to ask simple questions or request assistance, to accept instructions and respond appropriately to criticism from supervisors and to maintain socially appropriate behavior and to adhere to basic standards of neatness and cleanliness was moderately limited, while Claimant's ability to interact appropriately with the general public and to get along with co-workers or peers without distracting them or exhibiting behavioral extremes was markedly limited. Under Adaptation, Claimant's ability to respond appropriately to change in the work setting, to be aware of normal hazards and take appropriate precautions, to travel in unfamiliar places or use public transportation and to set realistic goals or make plans independently of others was moderately limited. (Department Exhibit A, pages 8-9).
- (14) On March 17, 2011, Claimant underwent a psychiatric examination. The psychiatrist found Claimant did not present with any acute physical distress or abnormal involuntary movements. His responses were appropriate. No evidence of loose associations of flight of ideas. He denied auditory and visual hallucinations. He did admit to always thinking negative about everything. His affect is dysphonic. His mood is depressed and anxious. He denied suicidal or homicidal ideations at present. He is oriented to person, place and year. His memory appears to be fair. He maintained attention and concentration fairly well. His judgment on formal testing is fair. Insight is present to some extent. Diagnosis: Axis I: Major Depression; recurrent, rule out bipolar disorder, depressed. Marijuana dependence and history of alcohol and cocaine

use. Axis III: History of asthma and chronic obstructive pulmonary disease. Obesity. Axis IV: The stressors are legal issues, financial issues and interpersonal issues. Axis V: Global Assessment of Function: 50-55. (Department Exhibit A, pages 10-12).

- (15) On April 5, 2011, Claimant applied for the Food Assistance Program (FAP) and State Disability Assistance (SDA). The application indicated Claimant was requesting disability for depression and his unemployment benefits ended on June 11, 2010. (Department Exhibit A, pages 118-137).
- (16) On April 9, 2011, the admitting physician at Bay Regional Medical Center noted Claimant is not answering questions appropriately. Chief complaint is he was fed up so he took a bunch of pills. History of present illness obtained from sister who is at Claimant's bedside. Claimant's sister stated Claimant called her at 2100 hours on April 8, 2011 and told her that she needs to take care of their mother. Sister took this as an acknowledgement that he was going to kill himself in a suicide attempt. Recently, he has been under quite an amount of stress. He lives with his parents and his father recently passed away within the past year. Claimant was alert, but not oriented and not acting appropriately. He admits having suicidal thoughts. His cognitive functions are intact. Urine drug screen is positive for cocaine. Possible suicide attempt. He will be admitted to the general medical floor. He is on Saphris and Cymbalta but do not know what he took tonight. A bit lethargic from what appeared to be a drug overdose. Drug screen is positive for marijuana. Alcohol screen was negative. Mental health will evaluate him in the morning. (Department Exhibit A, pages 20-25, 67-68).
- (17) On April 10, 2011, Claimant was involuntarily admitted to the mental health unit at bay Regional Medical Center. He had been admitted to the medical floor on April 9, 2011 for an overdose of medications. Claimant presented with depressive symptoms and depressed mood, feelings of hopelessness and suicidal thoughts. He was also struggling to take care of his mom following the death of his dad. He apparently called his sister saying that he cannot take it anymore so she called the ambulance and subsequently he was admitted to the medical floor. Upon medical stability, he was transferred to the mental health unit on an involuntary status. He tried to minimize extent of the abuse; he has a history of alcohol, marijuana and cocaine abuse. He stated he drinks on social occasions, smokes an average of once or twice a month or so; he stated that he smoked cocaine before he was hospitalized. He will likely be in the hospital four to five days and upon discharge, will be followed through Crossroads as before. He slept good with the Trazadone and he expressed that is the best sleep he ever had and also, depression is much better with Celexa. He no longer expresses suicidal or homicidal

ideations. He states that he is going to List Psychological for substance abuse counseling and he is anxious to go home and take care of his mother. Claimant was discharged on April 12, 2011. Discharge Diagnosis: Axis I: Major Depression; Axis III: Chronic obstructive pulmonary disease; Axis V: GAF around 52. (Department Exhibit A, pages 15-17).

- (18) On April 11, 2011, Claimant completed the Activities of Daily Living form noting that he fixes his own meals, grocery shops, does the housework and takes care of the lawn. (Department Exhibit A, pages 38-42).
- (19) On April 28, 2011, Claimant met with his psychiatrist after being hospitalized on April 8, 2011 for attempting to overdose on prescription medications. His affect was irritable and dysphoric. His mood was depressed. He denied suicidal ideations, homicidal ideations, auditory and visual hallucinations. (Department Exhibit A, pages 13-14).
- (20) Claimant is a 48 year old man whose birthday is [REDACTED] Claimant is 5'9" tall and weighs 210 lbs. Claimant completed high school. Claimant states that he last worked in 2010.
- (21) Claimant has applied for Social Security disability and been denied and at the time of the hearing is currently appealing.

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 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 depression, asthma and chronic obstructive pulmonary disease. 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 depression and breathing 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 at a temporary employment agency for two months in 2010 and two months in 2007. Claimant was unemployed from 2008 to 2010. 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 13.

At Step 5, the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least medium work duties. In March 2010, Claimant saw his doctor for a check-up of his asthma. He had appropriate affect and social judgment during the exam and was advised to stop smoking. In August 2010, Claimant saw his doctor for refills of his asthma medication. His doctor noted Claimant's mood was appropriate, he had an appropriate affect but was anxious. Claimant's prescriptions were refilled and he was advised to quit smoking and exercise. In December 2010, Claimant was seen for his asthma and anxiety. Claimant told his doctor that he used the Albuterol less when he was not smoking, but was back to smoking a pack every 2-3 days. Claimant was in a good mood, with appropriate affect. Claimant was prescribed Chantix for smoking cessation. Claimant's December 2010 chest x-ray revealed a normal cardiac silhouette and clear lungs with no effusion and showed no changes since his December 2008 x-ray. Claimant saw his doctor again in February 2011, stating he quit smoking 3 weeks ago and had noted an improvement in his breathing. His doctor noted Claimant's affect was appropriate.

In March 2011, a Claimant underwent a Mental Residual Functional Capacity Assessment. The assessment showed Claimant was not significantly limited regarding Understanding and Memory, and was only moderately limited regarding Adaptation. The only areas markedly limited were Claimant's ability to perform activities within a schedule, maintain regular attendance, be punctual within customary tolerances, to interact appropriately with the general public and to get along with coworkers or peers without distracting them or exhibiting behavioral extremes. The psychiatric examination found Claimant's responses were appropriate. There was no evidence of loose associations of flight of ideas. He denied auditory and visual hallucinations as well as suicidal or homicidal ideations. He admitted to always thinking negatively about

everything. His affect was dysphoric, and his mood was depressed and anxious. He was oriented to person, place and year and his memory appeared fair and his ability to maintain attention and concentration was fair. Claimant was diagnosed with major recurrent depression with marijuana dependence and a history of alcohol and cocaine use. His GAF was 50-55.

In April 2011, Claimant was involuntarily admitted to the mental health unit after a possible suicide attempt on prescription medications. At the time of admission, Claimant was alert, but not oriented and not acting appropriately. He admitted to having suicidal thoughts. His cognitive functions were intact. His urine drug screen was positive for cocaine and marijuana. He appeared lethargic from what appeared to be a drug overdose. He tried to minimize the extent of the abuse, but has a history of alcohol, marijuana and cocaine abuse. He slept well with the Trazadone and expressed it was the best sleep he ever had. While in the hospital, Claimant completed the Activities of Daily Living form and noted that he fixes his own meals, grocery shops, does the housework and takes care of the lawn. At discharge, he stated that his depression was much better on Celexa and he no longer was expressing suicidal or homicidal ideations, but was anxious to go home and take care of his mother. He was diagnosed with major depression and a GAF of 52.

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. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he cannot perform medium work. Under the Medical-Vocational guidelines, an individual age 18 - 49 (Claimant is 48 years of age), with limited education (Claimant completed high school) and an unskilled or limited history who can perform even only sedentary work is not considered disabled pursuant to Medical-Vocational Rule 203.30.

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's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that Claimant is unable to work for a period exceeding 90 days, the

Claimant does not meet the disability criteria for State Disability Assistance benefits either

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 and/or State Disability 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, retroactive Medical Assistance and State Disability 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: 10/17/11

Date Mailed: 10/17/11

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

