

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201138176
Issue No. 2009
Case No. [REDACTED]
Load No. September 26, 2011
Hearing Date: Oakland County DHS (02)

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 September 26, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) prior to 1/2011 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 6/30/08, Claimant applied for MA benefits.
2. On 3/9/11, Claimant applied for State Disability Assistance (SDA) benefits.
3. Claimant's only basis for MA and SDA benefits was as a disabled individual.
4. On 3/2/11, in response to Claimant's MA benefit application, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (See Exhibits 1-2).
5. On 5/31/11, in response to Claimant's SDA benefit application, the Medical Review Team (MRT) determined that Claimant was not a disabled individual.

6. On 3/30/11, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
7. On 6/3/11, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
8. On 6/13/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
9. On 7/22/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 221-222) based, in part, on application of Vocational Rule 202.13.
10. As of the date of the administrative hearing, Claimant was a 50 year old female (DOB 2/1/61) with a height of 5'4 " and weight of 150 pounds.
11. Claimant smokes 9-10 cigarettes per day and has no known relevant history of alcohol or illegal drug usage.
12. Claimant's highest education year completed was the 10th grade, though she subsequently obtained a general equivalency degree.
13. As of the date of administrative hearing, Claimant received Adult Medical Program (AMP) benefits and has received the benefits for an unspecified period of time.
14. On 9/26/11, an administrative hearing was held, at which Claimant submitted additional medical evidence.
15. The additional medical evidence was returned to SHRT for reevaluation of Claimant's assertion of disability.
16. On 11/16/11, SHRT found Claimant to be a disabled individual effective 1/2011.
17. The second SHRT decision by DHS entirely resolved Claimant's SDA dispute and resolved the MA benefit dispute back to 1/2011.
18. There is still a dispute concerning Claimant's disability as it relates to MA benefits from 6/2008-12/2010.
19. Claimant stated that she is a disabled individual based on impairments of: bipolar disorder, panic attacks, depression, hearing voices, herniated discs, bony

growths in knees, leg problems, carpal-tunnel syndrome, chronic obstructive pulmonary disease (COPD), fibroid tumors, headaches, pelvic inflammatory disease and a hyper-thyroid condition.

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 controlling DHS regulations are those that were in effect as of 6/2008, the month of the application which Claimant contends was wrongly denied. 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 though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits 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.

In the present case, DHS found Claimant to be disabled, but only back to 1/2011. Claimant is asserting a basis for MA benefits beginning 6/2008 (the month of Claimant's MA benefit application) while DHS only conceded that Claimant is disabled back to 1/2011. Thus, there is a dispute concerning Claimant's MA benefit eligibility from 6/2008-12/2010.

Generally, state agencies such as DHS must use the same definition of SSI 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 functionally 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).

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; no evidence was submitted to contradict Claimant's testimony. 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, all relevant evidence may be considered. The analysis will begin with the submitted medical documentation. Some documents were admitted as exhibits but were not necessarily relevant to the disability analysis; thus, there may be gaps in exhibit numbers.

Claimant was psychologically examined by a DHS assigned physician on 11/11/10; the corresponding psychological report (Exhibits 6-8) was presented. Claimant's history of anxiety was noted. Claimant stated she was married for 10-12 years starting when she was 17 years old and suffered physical and psychological abuse throughout her marriage. It was noted Claimant complained of flashbacks of the abuse.

Claimant also claimed she was diagnosed with bipolar disorder and suffers severe mood swings. During highs, Claimant was very energetic and would impulsively clean her home; it was also noted Claimant did unspecified "bad things". During her lows, it was noted Claimant would become a hermit and not talk to anyone while having crying spells and feeling hopeless.

The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM4). Axis I represents the acute symptoms that need treatment. Axis II is to note personality disorders and developmental disorders. Axis III is intended to note medical or neurological conditions that may influence a psychiatric problem. Axis IV identifies recent psychosocial stressors such as a death of a loved one, divorce or losing a job. Axis V identifies the patient's level of function on a scale of 0-100 in what is called a Global Assessment of Functioning (GAF) Scale.

Claimant's Axis I was listed as bipolar II disorder with psychotic features. Axis II was none. Axis III was hypothyroid, some hypertension, hypoglycemia, back pain, neck pain and COPD. Axis IV was noted as financial problems and no job. Claimant was given a GAF of 40. A score of 31-40 is described as "some impairment in reality testing or communication OR major impairment in several areas, such as work or school, family relations, judgment, thinking, or mood." A guarded prognosis was given.

The examiner also provided an impression that Claimant is restricted to performing simple, routine repetitive tasks. It was also noted that Claimant would be restricted to work involving brief superficial interactions with people due to her depression. In providing the impression, the examiner noted Claimant is capable of understanding and following simple instructions.

Claimant was physically examined by a DHS assigned physician on 11/11/10; the corresponding report (Exhibits 9-23) was presented. All of Claimant's impairments (listed above) were noted. Claimant stated that she was limited in standing or sitting for

10 minutes before her pain would increase. It was noted that Claimant had a 30 cigarette per day smoking habit since she was 14 years old.

The examiner looked at the following areas: vital signs, eyes, ears, nose, throat, neck, chest, heart, lungs, abdomen, back, extremities and neurologic. An impression was given that Claimant suffers from each of her reported ailments. A mild limiting in lower back range of motion was noted. Claimant's neck had full range of motion. Claimant's gait was stable and it was noted that she does not use a cane. Claimant's knee showed no outward signs of injury such as swelling, crepitation or effusion. Claimant had no signs of angina or heart failure.

Claimant was further physically examined by a separate physician (see Exhibits 13-14). An impression was given that Claimant's back has degenerative changes but no sign of fracture. It was also noted that Claimant's knees, chest and cervical spine each tested within normal limits.

Claimant's pulmonary function was also tested; the accompanying report (Exhibits 19-22) was presented. The report indicated Claimant possibly suffered from asthma. The report also showed subnormal results in multiple trials.

Claimant's list of medications (Exhibits 26-27) was presented. Claimant took 19 different medications for her various impairments. The medicine was intended to treat Claimant for the following: pain, blood pressure, sinuses, thyroid, anxiety, constipation, headaches, back pain and respiratory problems.

A report (Exhibits 28-35 and 57) documenting a doctor's office visit from 5/28/10 was presented. Claimant's chief complaint was pain from an allegedly infected finger. Claimant went to the hospital on 5/6/10 for the same problem; those documents (Exhibits 36-56) were presented. Claimant was hospitalized from 5/6/10-5/10/10 (see Exhibits 83-84).

Claimant was examined for back pain in 3/2009 by her treating physician. Various reports were presented (see Exhibit 58). The examining physician gave an impression of: herniated disc at C5-6 with mild encroachment on the vertebrae, mild bulging at C4-5 and mild retrolisthesis at C5 due to degenerative changes. Examination reports (Exhibits 76-82) from 2006 were also presented concerning Claimant's back pain.

Claimant was also examined concerning fibroid tumors in 3/2009; the examination report (Exhibit 59-60) was presented. The report confirms two cysts in Claimant's left ovary. An impression was given that one cyst may be hemorrhagic and the second one possibly a functional cyst. It was recommended that Claimant follow-up with an ultrasound within two months.

An MRI on Claimant's spine was performed in 3/2009 (see Exhibit 61). The examining physician noted small bilateral pleural effusions. The same examiner also noted degeneration of discs at L1-2, L2-3 and L3-4 with minimal bulging at L3-4 (see Exhibit 62). The changes were called "minor".

On 3/27/09, Claimant was examined by a treating gynecologist for abnormal bleeding (see Exhibits 63-67). An assessment that Claimant needed a hysteroscopy was given. Previous medical documents (Exhibits 68-75) verify Claimant had fibroid cysts.

Medical documents (Exhibits 75-132) concerning treatment of Claimant's back, fibroids, finger infection, pregnancy and other issues were presented. The documents are generally consistent with more recent medical documents. The documents established that some deterioration with Claimant's ailments occurred over time, though nothing specifically notable.

A report (Exhibits 133-135) following a back examination dated 3/22/09 was presented. The examiner gave a cervical spine impression of: a left-sided herniated disc at C4 with mild encroachment on the medial aspect of the vertebrae, mild bulging at C4-C5 and mild retrolisthesis at C5. Thoracic examination and testing resulted in a medical impression of a normal thoracic spine based on an MRI, with small bilateral pleural effusions. A medical impression of the lumbar spine was degenerative changes at L1-L2, L2-L3 and L3-L4 with minimal bulging at the L3-L4 level.

Medical evidence presented at the administrative hearing included a Medical Examination Report (Exhibits 223-224) dated 8/24/11. The treating physician determined Claimant was physically limited to lifting weights of less than 10 pounds and standing or walking less than two hours in eight hour workdays. Claimant did not require assistive devices for ambulation or assistance in meeting her needs in the home. Claimant was also limited from performing repetitive actions of grasping, pushing/pulling and fine manipulating. Claimant was further limited to operating foot and leg controls to her left side.

Claimant's cervical and lumbar spine was examined on 8/16/11 (see Exhibits 225-228). An impression of mild to moderate degenerative changes was provided for the cervical and lumbar spine. Claimant's thoracic spine was examined in response to Claimant's complaints of neck pain (see Exhibit 229). An impression that Claimant's MRI was normal was given.

Claimant's knee was examined on 6/30/11 (see Exhibits 230). Degenerative changes were noted in Claimant's left knee. There was medial joint space noted "to a minimal degree" with pointed tibial spines and posterior patellar spurring.

As noted earlier, the DHS decision finding Claimant disabled beginning 1/2011 renders the period from 6/2008-12/2010 as the only period in dispute. The medical records from prior to the time period may be relevant if the issues were ongoing through the period in dispute. Medical records from the disputed period or after it may also be relevant if the impairment existed prior to the creation of the medical record and back to the period in dispute.

Claimant established suffering from multiple physical issues. Claimant's COPD was verified by suboptimal respiratory testing, though the testing did not tend to establish a serious condition as of 2008-2010. Claimant's chronic smoking would likely exacerbate the results of any testing. This is not found to be a factor in the decision of Claimant's disability.

Claimant established left knee and back pain based on medical records which show degenerative changes in each. Claimant testified that she is limited to five minutes of walking or standing due to the pain. Claimant stated she would collapse if she attempted to walk or stand longer. Claimant also testified that she is unable to bend or squat. Claimant's testimony asserts an exceptionally severe limitation. Claimant's failure to use a walking device tends to make Claimant's testimony concerning standing and walking limits appear exaggerated. Someone who would collapse after only five minutes of walking would reasonably utilize a cane to prevent from falling.

However, the physician statement from 8/2011 tended to confirm Claimant's testimony. Claimant's treating physician limited Claimant from lifting any object heavier than 10 pounds and limited Claimant to standing or walking at the lowest exertion choice allowed, less than two hours in an eight hour day. However, this evidence is more indicative of Claimant's condition from 2011 than her condition from 6/2008-12/2010. It is believed Claimant had physical limitations prior to 2011 based on leg and back problems but perhaps not as severe as they were diagnosed to be in 2011.

The earliest direct evidence of bipolar disorder came from the examination from 11/2010 in which the examiner noted Claimant was capable only of very specific work. The GAF score of 40 tended to be consistent with the 8/2011 GAF score of 45.

It cannot be disputed that Claimant received medical treatment for each of her alleged impairments. Claimant's medication list supported addressing each of Claimant's reported impairments.

Based on the presented evidence, Claimant established a severe impairment to performing basic work activities. Claimant was limited physically due to back and leg issues while she is psychologically limited in adaptability and some social interactions. She is further limited in concentration, but to a lesser extent.

The evidence also tends to establish that Claimant suffered all of the above impairments during the period from 6/2008-12/2010 and that the impairments continued to last for a period of at least 12 months. It is accordingly found that Claimant established severe impairments. Accordingly, the analysis moves 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 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.

The impairment for which Claimant most persuasively established was for bipolar disorder. The listing for bipolar disorder 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 Part B of the listing, there were some moderate limitations to Claimant's concentration and pace (see Exhibit 233). However some moderate limitations are insufficient to establish marked limitations. There was also little evidence that Claimant suffers marked limitations in daily activities. There was no evidence of reoccurring decompensation of extended duration. It is found that Claimant fails to meet Part B of the above listed impairment. Claimant appears to meet the symptoms listed in Part A, however, the finding that Claimant fails Part B renders any analysis of Part A to be superfluous. There is a lack of evidence that Claimant meets Part C. Accordingly, it is found that Claimant does not meet the listing for affective disorders.

The listing for joint dysfunction (Listing 1.02) was also considered. There was insufficient medical evidence that Claimant ambulated ineffectively or suffers an upper body anatomical deformity which affected Claimant's fine and gross movements.

Listings for COPD (Listing 3.02) and asthma (Listing 3.03) were also considered. The listing for COPD was rejected due to a lack of evidence that Claimant's breathing was tested and found to be restricted at or below the levels found in the listing. The listing for asthma was rejected as there was a lack of evidence of asthma attacks or bronchitis sufficient to meet the listing for COPD.

The listing for spine disorders (Listing 1.04) was also considered. There was evidence of degenerative disc disease based on degenerative changes in Claimant's spine but no evidence of any other listing requirements.

It is found that Claimant failed to establish meeting an SSA listed impairment. Accordingly, the disability 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.

In the last 15 years, Claimant only listed work at "various" jobs from 1997-2005 (see Exhibit 5a). Claimant testified that she worked from this time as a secretary at a cancer center. Claimant stated that her duties included filing and other general secretarial duties such as answering phones and receptionist type duties. Though the job was sedentary in nature, Claimant contended that the lack of concentration and poor memory would prevent her from performing these duties.

Based on the medical evidence, there is not a sufficient amount to find that Claimant would be prevented from performing this past employment. There is no evidence that Claimant suffers memory loss and no reason to believe this based on the alleged impairments. It may be reasonable to conclude that Claimant's concentration would be impacted by her various impairments, however, not sufficiently to find that she is unable

to perform her previous secretarial employment. It is found that from 6/2008-12/2010, Claimant was capable of performing her past employment. Accordingly, it is found that DHS properly denied MA benefits to Claimant for this time period.

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.

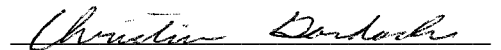
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- 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).

It has already been found that Claimant is not disabled for purposes of MA benefits from 6/2008-12/2010, based on the finding that Claimant is capable of performing past employment. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS properly denied SDA benefits to Claimant from 6/2008-12/2010 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 from 6/2008-12/2010 by determining that Claimant was not disabled. This order has no effect on the DHS decision finding Claimant to be disabled beginning 1/2011. The actions taken by DHS are AFFIRMED.


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

201138176/CG

Date Signed: 12/8/11

Date Mailed: 12/8/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:



201138176/CG