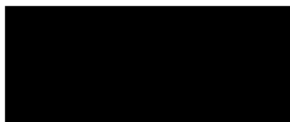


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201140309
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: October 17, 2011
Wayne County DHS (55)

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 October 17, 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) and State Disability Assistance (SDA) benefits on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 4/14/11, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 6/2/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (SEE Exhibits 3-4).
4. On 6/9/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 6/21/11, Claimant requested a hearing disputing (see Exhibit 2) the denial of SDA and MA benefits.
6. On 8/1/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 85-86) based, in part, on application of Vocational-Rule 202.17.
7. As of the date of the administrative hearing, Claimant was a 48 year old female (DOB 7/17/63) with a height of 5'5 ½ " and weight of 148 pounds.
8. Claimant smokes two cigarettes per day and has no relevant history of alcohol or illegal substance abuse.
9. Claimant's highest education year completed was the 7th grade.
10. Claimant last received medical coverage in 3/2011 when she received Medicaid.
11. Claimant stated she is a disabled individual based on impairments of hepatitis C, high blood pressure, anemia, heart problems, high cholesterol, depression and a twisted spine.

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 4/2011, 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.

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.

A Social Summary (Exhibits 5-6) dated 5/19/11 and completed by Claimant's DHS specialist was presented. The specialist noted Claimant's complaints of shortness of breath, neck/chest/back pain and occasional dizziness. It was noted that Claimant appeared pale during her interview for benefits.

A Medical Social Questionnaire (Exhibits 7-9) dated 4/26/11 and completed by Claimant was presented. Claimant noted that she was taking 16 pills per day. A Medical Social Questionnaire (Exhibits 10-12) dated 9/28/10 was not notable.

A Medical Examination Report (Exhibits 13-14) dated 4/26/11 from Claimant's treating physician was presented. The current diagnoses provided were hypertension, tobacco, coronary artery disease (CAD) and unstable angina. Claimant's depression was noted separately within the document. The physician listed eight current medications prescribed to Claimant. Claimant's condition was noted as deteriorating. It was also noted that Claimant was unable to take care of her home needs and sometimes needed assistance with manual chores such as laundry and housekeeping. A Medical Examination Report (Exhibits 15-16) dated 9/22/10 gave similar diagnoses and noted Claimant's condition was stable and that Claimant did not need assistance in the home.

A physical examination report (Exhibits 17-20) dated 12/13/10 was presented. The examiner was not Claimant's treating source. It was noted that Claimant complained of dyspnea after walking two blocks. Claimant also complained of leg spasms and stiffness. It was noted that Claimant was previously treated for atherosclerotic disease. It was noted that Claimant had angina but it was stabilized. It was noted Claimant had 2009 aortofemoral bypass surgery. It was also noted that Claimant had two stents inserted into her arteries in 2008.

Claimant's hepatitis C history was also noted. It was noted that Claimant did not appear jaundiced and that Claimant denied any ongoing problems with her liver.

The examination revealed Claimant had a full range of motion in all joints (see Exhibits 25-26) and that her general appearance, heent, cardiorespiratory, gait and neurology were all unremarkable. It was noted that Claimant's blood pressure was 200/100. The examiner concluded Claimant could work sitting, standing, walking, minimally bending and lifting at least 5 pounds of weight for eight hours per day.

A psychological examination report (Exhibits 21-23) dated 12/13/10 from a non-treating source was provided. Claimant reported that she suffered crying spells, sleep restlessness and suicidal ideation. Claimant's medications, past treatment, personal history, interests and activities, general appearance, mental status and social functioning were considered. It was noted that Claimant had problems with concentration and focusing.

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 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.

Axis I contained a diagnosis for major depressive disorder with psychosis, post-traumatic stress disorder (PTSD) and polysubstance dependence in remission. The PTSD was presumably based on an incident with getting shot a few years earlier. Axis II noted personality disorder, NOS. Axis II noted medical issues such as: peripheral vascular disease, claudication, CAD, HTN and high cholesterol. Axis IV noted moderate health problems, social problems and employment problems. Axis V noted a GAF of 49. A score within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g., no friends, unable to keep a job)."

Claimant provided information on her daily activities (Exhibits 30-34) in a form dated 4/26/11. Claimant noted having trouble sleeping because she hurts "all the time". Claimant stated she cannot always dress but she does the best she can to groom herself. Claimant indicated she prepares her own meals, salads and sandwiches. She also stated that her sister or friends help her fix meals. Claimant noted that she used to weigh 185 pounds but as of 4/26/11, weighed 115 pounds. Claimant indicated that her sister helps her with laundry and cleaning. Claimant noted that she does not read or write well. She noted having losing interests in activities. A daily activity form (Exhibits 35-39) dated 9/27/10 was disregarded due to the more current information.

Other documents such as Claimant's application requesting MA benefits, verification of her SSA application and signed release for medical records were included not but notable.

Claimant testified that until she lost her Medicaid, she saw a physician for her heart, a general practitioner and a therapist at a guidance center to treat her depression. Claimant stated she has a half block walking limit before she experiences cramping. Claimant stated that her sitting limit was 15 minutes. She stated that she has grasping difficulties because her hands get numb. She stated that her physicians imposed 10 pound lifting limits but the only reference to such a limit was from a non-treating physician who indicated Claimant was capable of lifting at least 5 pounds. Claimant stated she could stand 15-30 minutes before needing to sit due to leg spasms. Claimant stated she avoids stairs due to worries about losing balance. Claimant stated that she suffers calf cramps when trying to squat. Claimant stated that she sometimes uses walking assistance (e.g. cane or walker) but did not on the date of the hearing.

Claimant testified that she could drive but does not due to a lack of vehicle. Claimant also stated that she goes shopping and utilizes a scooter when she does. Claimant stated that her sister or boyfriend assist her with laundry.

Claimant stated that she was never hospitalized due to psychological problems. She stated that she has 4-5 crying spells per day.

The medical evidence was very much lacking concerning many of Claimant's complaints. From Claimant's treating physicians, only a single two page document with little more than general diagnoses was submitted. No evidence was presented from Claimant's treating therapist or her heart doctor.

Very little evidence was submitted concerning Claimant's impairments and how they would affect her ability to perform basic work activities. A non-treating examiner noted Claimant's lack of focus and concentration.

Based on the presented evidence it is reasonable to find Claimant suffers some impairments to her ability to perform most physical work activities such as standing, sitting, walking and lifting. The non-treating examiner's conclusion that Claimant was capable of lifting at least five pounds implied some unspecified maximum lifting limit. Claimant's testimony was at least credible in establishing that she had difficulties in the performance of all physical basic work activities though not necessarily to the extent that Claimant testified.

Further, Claimant's psychological examiner at least noted some difficulties in concentration and social functioning purely based on a GAF of 49. Based on the

presented evidence, there was a sufficient showing of a severe impairment based on physical and psychological symptoms.

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

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

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

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

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

OR

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

h. Hallucinations, delusions or paranoid thinking

OR

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

AND

B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or
3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration

OR

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

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

Claimant could meet the above listing by meeting Part C. Claimant lives alone and there is no evidence for a need of a highly structured living environment. There is no evidence that a more stressful change in Claimant's environment would create decompensation. There is no evidence that Claimant suffered repeated episodes of decompensation. Claimant has not been hospitalized related to mental illness. Other evidence such as a dramatic increase in medication, suicide attempts or other episodes are simply not a part of the record. It is found Claimant fails to meet Part C of the above listing.

Looking at Part B. there is a lack of evidence that Claimant is markedly restricted in performing daily activities. Claimant is capable of cooking, shopping and even driving. Claimant noted some difficulty in dressing herself. It was noted that Claimant needed and received assistance with laundry and housework, though this was based on a physical need more than a mental need. The evidence tended to show Claimant was fully mentally capable of performing daily activities without supervision.

Claimant's social functioning was noted as a problem by an examiner. Claimant indicated that she remains fairly social and sees friends and family on a regular basis. Claimant stated she has a boyfriend. There is no history of altercations, arrests, firings, stranger avoidance or other anti-social behavior. Without such restrictions, Claimant cannot be found to have marked difficulties in social functioning.

It was already found Claimant does not suffer repeated episodes of decompensation in the Part C analysis. Thus, Claimant failed to meet at least three of the four listed limitations in Part B. Accordingly, Claimant cannot meet the listing for affective disorders. The listing for substance abuse disorders (12.09) was also considered and rejected for similar reasons to why the affective disorder listing was rejected.

Claimant also provided evidence that she suffers CAD. Cardiovascular listings are found in 4.00. The listing for CAD is covered by Listing 4.04 which reads:

4.04 Ischemic heart disease, with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

A. Sign- or symptom-limited exercise tolerance test demonstrating at least one of the following manifestations at a workload equivalent to 5 METs or less:

1. Horizontal or downsloping depression, in the absence of digitalis glycoside treatment or hypokalemia, of the ST segment of at least -0.10 millivolts (-1.0 mm) in at least 3 consecutive complexes that are on a level baseline in any lead other than a VR, and depression of at least -0.10 millivolts lasting for at least 1 minute of recovery; or
2. At least 0.1 millivolt (1 mm) ST elevation above resting baseline in non-infarct leads during both exercise and 1 or more minutes of recovery; or
3. Decrease of 10 mm Hg or more in systolic pressure below the baseline blood pressure or the preceding systolic pressure measured during exercise (see 4.00E9e) due to left ventricular dysfunction, despite an increase in workload; or
4. Documented ischemia at an exercise level equivalent to 5 METs or less on appropriate medically acceptable imaging, such as radionuclide perfusion scans or stress echocardiography.

OR

B. Three separate ischemic episodes, each requiring revascularization or not amenable to revascularization (see 4.00E9f), within a consecutive 12-month period (see 4.00A3e).

OR

C. Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC, preferably one experienced in the care of patients

with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:
 - a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
 - b. 70 percent or more narrowing of another nonbypassed coronary artery; or
 - c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or
 - d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or
 - e. 70 percent or more narrowing of a bypass graft vessel; and
2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living.

There is an utter lack of medical evidence for meeting the above listing. Claimant's angina was noted as controlled. Though Claimant suffered severe heart problems as recently as 2009, as indicated by bypass surgery and the insertion of stents, there is no evidence that her heart problems continued other than a general diagnosis of CAD. It is found Claimant failed to establish meeting the SSA listing for CAD.

Claimant testified that her spine was injured in a vehicle accident. Again, there was a lack of evidence to support Claimant's testimony. No listing was considered due to the total lack of documentary verification.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

A listing of Claimant's employment from the past 15 years was provided (see Exhibit 9). Claimant has not worked since 2001. Claimant listed employment from 2001-2001 as a cashier for a valet service company. Claimant stated that she held the job for six months.

Claimant stated her job duties involved taking tickets for vehicles that used the service and taking money from, and giving change to customers. Claimant's duties did not involve parking any of the vehicles. Claimant described the job as a sit-down job.

Claimant testified that she would not be able to perform the job because of injuries to her spine stemming from a vehicle accident in 9/2011. Claimant stated that she has sitting limitations. There is no evidence to support Claimant's testimony. If Claimant had sitting restrictions, medical evidence should substantiate the testimony. As indicated above, a restriction cannot even be deduced based on injuries, as there is a total absence of written documentation concerning the accident any injuries Claimant may have suffered.

Claimant established that she suffers physically due to heart problems. However, there is little evidence to establish that Claimant would be physically incapable of performing her previous employment. It is found that Claimant has no physical restrictions preventing her from performing her prior employment as a cashier.

Looking at Claimant's non-exertional impairments, there is evidence that Claimant has psychological issues which would affect her ability to maintain employment. It is known that Claimant was taking eight different medications in 3/2011, per her treating physician. Claimant testified taking 16 pills per day. Some side effects, including drowsiness, from the medications were established. Though employment amounting to SGA might not be easy for Claimant to maintain, there is no evidence establishing that Claimant could not perform the past employment. It is found that Claimant is capable of performing past employment. Accordingly, it is found that Claimant is not a disabled individual and that DHS properly denied Claimant's application for MA benefits.

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

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

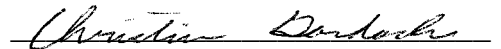
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

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

It has already been found that Claimant is not disabled for purposes of MA benefits 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 Claimant's application for SDA benefits on the basis that Claimant is not a disabled individual.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied MA and SDA benefits to Claimant by determining that Claimant was not disabled. The actions taken by DHS are AFFIRMED.


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

Date Signed: October 27, 2011

Date Mailed: October 27, 2011

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:

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- 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:

