

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201131505  
Issue No.: 2009; 4031  
Case No.: [REDACTED]  
Hearing Date: July 5, 2011  
Wayne County DHS (43)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 5, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

**ISSUE**

Whether DHS properly terminated Claimant's 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. Claimant was an ongoing MA and SDA recipient.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 3/18/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 6-7).
4. On 4/12/11, DHS terminated Claimant's MA and SDA benefits beginning 5/2011 and mailed a Notice of Case Action (Exhibit 3-5) informing Claimant of the benefit terminations.

5. On 4/29/11, Claimant requested a hearing (see Exhibit 2) disputing the denial of SDA and MA benefits.
6. On 5/17/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibit 70) based, in part, on Vocational-Rule 202.13.
7. As of the date of the administrative hearing, Claimant was a 48 year old female (DOB 5/11/63) with a height of 5'3" and weight of 200 pounds.
8. Claimant stated she smokes approximately 10 cigarettes per day and has a history of alcohol and cocaine abuse (in the 1980s).
9. Claimant's highest level of education completed was the 12<sup>th</sup> grade.
10. Claimant received Medicaid coverage through 4/2011 but has had no medical coverage since.
11. Claimant claimed to be a disabled individual based on alleged impairments of depression and back problems.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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

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

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.*

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

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

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

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

Generally, state agencies such as DHS must use the same definition of disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A nearly identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

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

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

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR

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416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927.

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

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

In the present case, Claimant denied having any employment since the date of the MA application; 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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F2d 860, 862 (6<sup>th</sup> 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 (1<sup>st</sup> 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 (1<sup>st</sup> Cir. 1986).

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

A Medical Examination Report (Exhibits 10-11) dated 2/4/11 was completed by Claimant's treating physician. The report listed the following diagnoses for Claimant: hypertension, gout, obesity, degenerative disc disease, depression, anxiety, peripheral neuropathy and one unknown condition (too illegible to read). It was noted that Claimant took ten different prescriptions for her various conditions including: Prozac, Klonopin, Percocet and Motrin among others. It was noted that Claimant's condition was stable.

Lab test results (Exhibits 12-14) dated 11/9/10 were submitted. Areas that were out of range included: uric acid level, K, CL, AST (SGOT), TOT BILI and PLT.

A Medical Examination Report (Exhibits 15-16) dated 2/3/11 was also presented. The report diagnosed Claimant with lumbar disc displacement. The physician completing the report noted the condition started in 7/2010 and has been getting progressively worse.

A radiology report (Exhibits 17-18) dated 10/9/10 was presented. The physician gave an impression that there were multilevel degenerative changes of the lumbar spine with canal and multilevel neural foraminal narrowing, greatest at L4-L5. At least six different vertebrae were noted as having various problems including: anterior osteophytes, facet degenerative changes, disc protrusion, canal narrowing and neural foraminal narrowing.

Claimant completed an Activities of Daily Living (Exhibits 25-29). Claimant stated she has difficulty sleeping due to pain and crying. She also stated difficulty in performing household chores. Claimant stated that she forgets a lot and her memory is getting worse.

A psychiatric evaluation was performed on Claimant on 8/12/09; the corresponding report was submitted as Exhibits 32-33. Claimant's noted strengths included: good social skills, a willingness to work and good physical health. The following risk factors were noted: financial problems, chronic mental illness and limited education.

The psychological examiner diagnosed Claimant with major depressive disorder, recurrent and polysubstance abuse (alcohol, pot and oxycotin). The examiner found Claimant had a global assessment function (GAF) score of 55. The Diagnostic and Statistical Manual of Mental Disorders Fourth Edition (DSM-IV) describes GAF as a scale used by clinicians to subjectively rate the social, occupational, and psychological functioning of adults. A score within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. Claimant's prognosis was fair. Subsequent evaluations (Exhibits 40-44) dated from 12/21/09-5/10/10) also assessed Claimant with a GAF of 55.

Medication review reports (Exhibits 34-39) were submitted. Claimant's first four reports (dated 8/11/10, 9/8/10, 10/11/10 and 11/8/10) noted that Claimant was responding well to medication. The 10/11/10 reviewer noted that Claimant was not clinically depressed. The 11/19/11 review noted an increase in Prozac dosage (to 20mg p.o. b.i.d.) due to Claimant's request. The report also noted Claimant's complaints of insomnia due to back pain and an increasing unhappiness reported by Claimant.

Three Physician Document Sheets (Exhibits 47-59) were presented. The reports were dated 9/10/10, 10/9/10 and 11/1/10. Claimant's history of depression and back pain were noted in each report.

The physician document sheet dated 9/10/10 noted Claimant's complaints of severe lower back pain. The examiner noted CVA tenderness-left, CVA tenderness-right, lumbar spine with paravertebral tenderness and no pain on straight leg raise test. Claimant was prescribed Vicodin to assist with complaints of pain. The physician document sheet dated 10/9/10 noted Claimant was positive for midline tenderness in a lumbar spine exam. The physician document sheet dated 11/2/10 noted Claimant's complaint of knee pain.

Claimant was psychologically examined on 3/25/10 by a DHS referred physician; the report was presented as Exhibits 60-62. The report was consistent with other documents which noted a history of prescription abuse, depression and back pain. Like subsequent examinations, Claimant was given a GAF of 55 and diagnosed with depression.

A physical examination report date 3/25/10 (Exhibits 63-70) was presented. The report verified a limited range in motion in all lumbar movement. The examiner determined Claimant was capable of work of eight hours per day. The examiner noted Claimant had a 10 pound weight limit and a restriction of no bending.

The medical records verify that Claimant suffers from a severe impairment with her back. Though Claimant does not require the use of a walking device, Claimant's chronic

pain complaints are well documented. Claimant takes several pain killers and has done so for over a year. Claimant has limited range of motion and multiple problems in her lumbar vertebrae. Claimant's testimony that she has standing, walking and lifting limitations tended to be consistent with the medical records. Based on the degenerative nature of Claimant's disease, it would be reasonable to believe that Claimant's condition worsened since the examiner of 3/25/10 found that Claimant had no walking or standing limitations. It is found that Claimant established a severe impairment due to back problems.

Claimant's depression was well documented and long standing. Claimant's GAF scores of 55 and multiple prescriptions to treat her depression (e.g. Klonopin, Prozac, Seroquel) verified ongoing problems with the disorder. Despite Claimant's depression, the undersigned found little support that her depression would affect an ability to perform basic work activities. Claimant was found to be social. Claimant noted an increasing problem with memory though none of the medical documents could verify this as a problem. Overall, there was an absence of support that Claimant's depression would affect her work abilities. Accordingly, depression is not found to be a severe impairment. It should be noted that Claimant's depression may not amount to a severe impairment, but may still be considered in subsequent steps. The disability analysis may still proceed to step three based on an impairment involving back problems.

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 a listed impairment is not met, then the analysis moves to step four.

Claimant's best listing would fall under musculoskeletal impairments (Listing 1.00). Listing 1.04 applies to spinal disorders and reads:

**1.04 Disorders of the spine** (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine);

OR

B. Spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours;

OR

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

It was established that Claimant suffers from degenerative disc disease (DDD). This was verified by the Medical Examination Report dated 2/4/11. Claimant's other medical records all tend to support the diagnosis.

There was no evidence that Claimant meets either Part B or C of the above listing. Claimant's opportunity meet Listing 1.04 depends on her ability to meet Part A.

To meet Part A of the above listing, there must be evidence of nerve root compression. The compression also must be characterized by: neuro-anatomic distribution of pain, limited spine motion, motor loss accompanied by sensory or reflex loss and positive straight leg raising test (because Claimant's complaints concern her lower back).

There is medical evidence of neuro-anatomic distribution of pain and limited spine motion. There is no evidence of motor loss accompanied by sensory or reflex loss; without this evidence, Claimant cannot be found to meet the above listing.

Listings for 1.03 and 1.04 were considered and rejected. Listings for 12.04 (affective disorder) and 12.09 (substance addiction disorder) were also considered and rejected. As Claimant failed to meet a listed impairment, the analysis moves to step four.

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

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

physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

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

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or

difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

Claimant's longest employment in the last 15 years was time spent as a nurse's aide from 2001-2007. Claimant described the employment indicated that she worked 32-40 hours per week (see Exhibit 24). Claimant stated that she left her most recent nurse's aide job due to medical concerns because her employer would not accommodate her 20 pound lifting restrictions. Claimant stated her job duties included lifting patients out of bed.

Claimant also stated that she was a self-employed cleaning person in 2009. Claimant stated she had to stop the employment due to the problems she had in lifting items.

Based on Claimant's employment, the undersigned would characterize the nurse's aide employment as heavy work due to the job duties in lifting patients. The undersigned would characterize the cleaning work as light work.

Looking at Claimant's abilities, little evidence was provided concerning Claimant's restrictions. Claimant stated that she was capable of walking 1-2 blocks and lifting up to 20 pounds. She stated that she could stand 15-20 minutes without significant discomfort. Claimant stated that she uses a cane to walk all of the time. A DHS specialist noted the cane usage in the Social Summary (Exhibits 8-9).

Claimant's pain complaints are well documented. Claimant takes pain medications (e.g. Percocet and Vicodin) to deal with her knee and back discomfort.

It was also well documented that Claimant had numerous lower back difficulties. The Radiology Report (Exhibits 17-18) noted some form of problem in several vertebrae. Degenerative changes were noted at three of the lumbar vertebrae. Other vertebrae problems included: disc protrusion, facet arthropathy, ligamentum flavum hypertrophy, canal narrowing.

The undersigned was also persuaded by the physician's diagnosis that there were multi-level degenerative changes in Claimant's back. The number of problematic vertebrae and worsening of Claimant's back conditions is persuasive evidence that supported serious physical limits on Claimant's ability to walk and stand.

In determining Claimant's work level, some consideration was given to Claimant's depression and knee pain complaints. Based on the totality of evidence, it is found that Claimant is incapable of performing a sedentary level of employment

As Claimant cannot perform even a sedentary level of employment, it may only be concluded that Claimant is not capable of performing past relevant work. Accordingly, the analysis proceeds to step five.

At the fifth step in the analysis, the burden shifts from Claimant to DHS to present proof that Claimant has the residual capacity to maintain substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983). The age for younger individuals (under 50) generally will not seriously affect the ability to adjust to other work. 20 CFR 416.963(c)

The fifth step looks at Claimant's capable level of work, age, education and type of previous work. These factors are matched up to a SSA Vocation-Rules. The rules are provided in grid format and are informally referred to as the Grid. The Grid provides the outcome as to whether the claimant is disabled or not.

The finding within step four that Claimant is incapable of even sedentary employment applies to the step five analysis. Based on this finding, it can only be found that Claimant lacks the residual capacity to maintain any substantial gainful employment. Accordingly, it is found that Claimant is a disabled individual and that the DHS determination terminating MA and SDA benefits was improper.

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

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

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

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

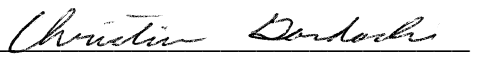
The undersigned already found Claimant to be disabled for purposes of MA benefits based on a finding that Claimant is incapable of performing SGA due to her impairments. The analysis and finding applies equally to the SDA benefit analysis. It is found that DHS improperly terminated Claimant's SDA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly terminated Claimant's ongoing MA and SDA benefits by determining that Claimant was not a disabled individual. It is ordered that DHS:

- (1) reinstate Claimant's SDA and MA benefits from the date of benefit terminations;
- (2) upon reinstatement, evaluate Claimant's eligibility for MA and SDA benefits on the basis that Claimant is a disabled individual;
- (3) supplement Claimant for any benefits not received as a result of the improper termination; and
- (4) if Claimant is found eligible for future MA and SDA benefits, to schedule a review for MA and SDA benefits for 8/2012.

The actions taken by DHS are REVERSED.

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

Date Signed: August 12, 2011

Date Mailed: August 12, 2011

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or

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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.

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