

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201133901
Issue No. [REDACTED]
Case No. 112716370
Hearing Date: July 28, 2011
Macomb County DHS (20)

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 28, 2011 from Detroit, Michigan. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 11/15/10, Claimant applied for SDA and MA benefits including retroactive MA benefits for 8/2010-10/2010.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 3/30/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual.
4. On 4/6/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 4/20/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 6/2/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 58-59) based, in part, on a basis that Claimant is capable of past relevant employment.
7. As of the date of the administrative hearing, Claimant was a 47 year old female (DOB 9/23/63) with a height of 5'4" and weight of 150 pounds.
8. Claimant smokes approximately 10 cigarettes per day and has no relevant history of alcohol or substance abuse.
9. Claimant's highest education year completed was the 12th grade.
10. Claimant last received medical coverage in 2009.
11. Claimant claimed to be a disabled individual based on impairments of neck and back related problems, irritable bowel syndrome, depression and bipolar disorder.

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; AMP is only periodically open to new applicants. 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.
- 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 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). 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 (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, the undersigned can consider all relevant evidence. The undersigned shall begin the analysis by reviewing Claimant's medical documentation.

On 2/24/11, Claimant was psychologically examined by a DHS referred therapist (see Exhibits 1-3). Claimant was diagnosed with major depressive disorder, recurrent with psychotic features in partial remission. Claimant's physical impairments were a factor in Claimant's diagnosis. Claimant's prognosis was deemed as fair.

The examining physician scored Claimant's GAF at 60. 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 denied having hallucinations to the examiner but stated that she heard weird noises. It was also noted that Claimant tended to minimize her symptoms and had a poor motivation. The examiner made no statements concerning Claimant's limitations on employment.

On 2/24/11, Claimant was also examined concerning her physically based complaints. The examiner gave an impression that Claimant suffered from cervical radiculopathy. Note that the examiner was a DHS referred examiner and did not base conclusions on x-rays or blood work. The examiner noted Claimant primarily complained about pain in her neck but had a full range of motion, no spasms and no tenderness.

A Medical Examination Report (Exhibits 17-18) dated 12/17/10 was presented as evidence. The examiner diagnosed Claimant with chronic neck pain, depression and allergies. Claimant's condition was noted as deteriorating, though the examiner also noted that this opinion was based on Claimant's statement as this was the first time the examiner examined Claimant.

Claimant submitted a log of her daily activities (Exhibits 19-20, 24-26). Claimant noted her difficulty in sleeping and a desire to sleep more. Claimant also noted increased difficulties since a neck surgery in 2004.

Claimant was psychologically examined on 4/6/11 (see Exhibits 27-33) by a different psychologist from the 2/24/11 examiner. Claimant was described as having poor self-esteem with limited insight and not one to minimize or exaggerate symptoms. Claimant was described as motivated but emotionally overwhelmed, in part, by a recent loss of her house. The examiner noted that Claimant sighed and cried throughout the assessment. Claimant was assigned 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 was examined for physical impairments on 3/30/11; the accompanying examination report was included as Exhibits 34-40. Notable items that were considered by the examiner include that Claimant had no limited range in neck motion, Claimant previously suffered a ruptured disc at C5 and that Claimant underwent a cervical disc fusion surgery.

Claimant's physical limitations were also noted in the report dated 3/30/11. Claimant stated she was capable of: carrying a weight of 20 pounds for a distance of ten feet, walking one street block, standing for one or two hours and climbing one flight of stairs while holding onto the railing. She stated that cold weather worsened her condition and that she suffered neck and back stiffness sometimes. Claimant's history of kidney stones, irritable bowel syndrome and depression were noted. Crepitis in the left knee joint was noted but there was no limited range of motion in any joints. The examiner concluded Claimant was capable of work for eight hours per day. No further limitations on the ability to work were noted beyond what Claimant described to the examiner.

An extensive report concerning Claimant work history was presented (Exhibits 45-57) as evidence. Claimant had a very consistent history of employment until 2007 when she was fired for allegations of rudeness. Claimant noted that the State of Michigan found the termination improper, presumably in the context of a hearing concerning unemployment benefits.

Based on the presented evidence, there is a sufficient basis to find that Claimant suffers a severe impairment to her ability to perform basic work activities and the impairment is expected to last for a period of 12 months or longer. Claimant established some limits in her ability to perform all physical aspects of a job (walking, standing, lifting...) due to her neck and back problems. Claimant's non-exertional limitations were not as well documented.

Though there is some evidence that Claimant suffers from depression, there is little evidence as to how that affects Claimant's ability to perform basic work abilities. There was no evidence that Claimant was suicidal, suffered hallucinations, had difficulty concentrating or socializing or any other symptoms which would impact her ability to work. As step two requires a de minimus standard, the undersigned can find that there was sufficient evidence of depression to establish an adverse effect on basic work activities. Accordingly, it is found Claimant established a severe physical and mental impairment; thus, the analysis may proceed 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.

Mental impairments are described under listing 12.00. Claimant's only relevant mental impairment diagnosis was for depression. Depression falls 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.

The undersigned will first examine whether Claimant met Part B of the affective disorder listing. Claimant stated she was able to perform all of household chores including: cooking, cleaning, shopping, laundry and driving; this tends to establish Claimant is markedly limited in daily activities. There was also no evidence that Claimant had marked difficulties socializing or maintaining concentration. There was no evidence that

Claimant suffered episodes of decompensation (e.g. hospitalization, panic attacks or any symptom of a worsening depression). There is simply no evidence that Claimant met any of the requirements for Part B, let alone for two of the requirements.

Similarly, there is insufficient evidence that Claimant met any of the requirements for Part C. The undersigned considered Claimant's living arrangement (Claimant lives with her boyfriend and his mother) as one that was required for Claimant's ability to function. The evidence tended to establish the environment was supportive but there was no evidence to find that Claimant could not function outside of this environment. It is found that Claimant failed to meet the listing for affective disorder.

The undersigned also considered Claimant's neck and back pain as a listed impairment. The listing 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.

Again, the evidence failed to establish that Claimant met the listed impairment. There were insufficient records that any part of Listing 1.04 applies to Claimant. It is found that Claimant failed to establish meeting a listed impairment. 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

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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 past employment consisted of being an optician. Claimant described the employment as being an eye doctor's assistant. She stated the job required significant standing (Claimant testified she stood 90% of the day). She stated her duties included: giving eye tests to customers, restocking merchandise and various customer service duties, including walking around with customers and ringing up their orders. Claimant testified that the duties also involved significant lifting by having to move incoming merchandise boxes. She also stated that her inability to perform this function makes her essentially unemployable because doctors do not want to hire persons incapable of performing the duty.

Based on Claimant's description of her past employment duties, the undersigned considers Claimant's past employment to qualify as medium work. It must then be considered what level of work that Claimant is capable of performing.

The undersigned is not inclined to find that Claimant's non-exertional impairment limit Claimant's employment opportunities. Claimant's ability to perform all household duties is evidence supporting a finding that Claimant suffers no non-exertional limitations. Though a GAF score of 49 would tend to be representative of serious functioning symptoms, there was no specification on how Claimant was limited. Though Claimant suffers from depression, there is simply insufficient evidence to find that Claimant is non-exertionally limited in the ability to perform past employment. The undersigned tends to believe that Claimant has to live with some pain stemming from her ongoing neck and back issues, but there is no documentary evidence to establish that the pain would prevent Claimant from performing basic work activities.

Claimant's ability and inability to perform physical work activities was better established. Claimant described modest limits on all physical work activities. For example, Claimant stated she could stand 30 minutes before needing to sit down. Claimant stated she could walk one mile before needing rest. Claimant stated her carrying limits were limited to approximately 10 pounds. Claimant's testimony tended to be consistent with the medical records. Based on the presented evidence, it is found that Claimant is capable of performing only sedentary employment.

As it was found that Claimant's past employment falls under medium level work, it is appropriately found that Claimant is not capable of performing her past employment. Accordingly, the analysis moves on to the fifth and final step.

At the fifth step in the analysis, the burden shifts from Claimant to DHS to present proof that Claimant has the residual capacity to 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 undersigned knows of no requirements for any degree or certification required to be an optician. However, based on Claimant's described job duties, particularly the giving of eye tests, the undersigned is more inclined to find that Claimant's job was semi-skilled.

Based on Claimant's age (47 years), education (high school completion), work experience (semi-skilled and skills not transferrable) and capable work level (sedentary), the undersigned finds that Vocational Rule 201.21 applies. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly denied Claimant's application on the basis that Claimant is not a disabled individual.

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.

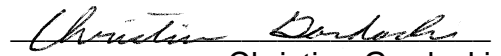
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- 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 not disabled for purposes of MA benefits based on the finding that Claimant is capable of performing a sedentary level of employment and that vocational rules direct a finding that Claimant is not disabled. 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 based on a determination 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: August 2, 2011

Date Mailed: August 2, 2011

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NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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

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cc:

