

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-35862
Issue No.: 2009 4031
Case No.: [REDACTED]
Hearing Date: August 15, 2011
Wayne County DHS (18)

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 August 15, 2011 from Detroit, Michigan. The claimant appeared and testified; Ruth Bathurst 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) 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 2/11/11, Claimant applied for SDA benefits.
2. On 4/28/11, Claimant applied for MA benefits.
3. Claimant's only basis for MA and SDA benefits was as a disabled individual.
4. On 5/10/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).
5. On 5/19/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action (Exhibits 1-3) informing Claimant of the denial.

6. On 5/27/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
7. On 6/29/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 82-83) based, in part, on reliance of Vocational-Rule 202.20.
8. On 8/15/11, an administrative hearing was held in which Claimant submitted additional medical documentation.
9. The additional medical documentation was forwarded to SHRT for reconsideration as to whether Claimant is a disabled individual.
10. On 9/21/11, SHRT again determined that Claimant was not a disabled individual, in part, on a determination that Claimant was capable of sedentary employment.
11. As of the date of the administrative hearing, Claimant was a 45 year old female ([REDACTED]) with a height of 5'5 " and weight of 254 pounds.
12. Claimant has no relevant history of tobacco, alcohol or substance abuse.
13. Claimant failed to complete high school but obtained a General Equivalency Diploma.
14. Claimant has no current medical coverage and last received medical coverage in 2007.
15. Claimant claimed to be a disabled individual based on impairments of: asthma, migraine headaches, back problems and heart 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 5/2011, the estimated 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 though it is not always offered by DHS. It was not disputed that Claimant's only potential category for MA benefits 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).

It was not disputed that none 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 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, all relevant evidence may be considered. The analysis will begin with a review of Claimant's medical documentation.

Claimant presented a report dated 11/1/10 (Exhibits 6-8) following an evaluation from an internist. Claimant's history of migraine headaches, mild hypertension, asthma and knee injuries were noted. An impression was given that Claimant was capable of performing work activities not requiring: kneeling, squatting, prolonged walking, prolonged standing or exposure to extreme temperatures.

Various hospital documents were submitted (Exhibits 14-47) from a period of 12/29/10 through 4/28/11. It was noted Claimant went to the hospital on 1/31/11 concerning chest pain (see Exhibit 33). Claimant's heart rate was noted as falling into the 50s (see Exhibit 34) falling as low as 40 beats per minute (see Exhibit 39).

On 1/31/11, an emergency room evaluation found that Claimant suffered from sinus bradycardia (see Exhibit 34). This is a condition that could cause light-headedness, dizziness, syncope and a slow heart rate but is not necessarily dangerous. Further testing was ordered.

A radiology report (Exhibit 17) dated 2/1/11 noted Claimant's heart size and vasculature were within the upper limits of normal. Left ventricle ejection fraction (EF) was

measured at 82% (see Exhibit 18). An impression was given as follows: no perfusion defects and left ventricle EF was normal.

A Lexiscan Myoview stress test was performed on 2/1/11. The corresponding report (Exhibit 19) noted Claimant's left ventricle EF as 55-60%. It was noted that Claimant's right ventricle, aortic valve, mitral valve, pulmonic valve were all normal.

A physician report dated 2/18/11 (Exhibits 48-50) was presented. It was noted Claimant continues to have short episodes of irregular heart beat associated with shortness of breath. Claimant's complaints of migraine headaches were noted. It was also noted that the breathing loss episodes resolve on their own, and have occurred over several years. Claimant's heart rate and rhythm were noted as irregularly irregular and abnormal. It was noted an EKG showed Claimant suffered from Afib. Coronary artery disease was noted as an impression by the physician.

A Medical Social Questionnaire (Exhibits 11-13) dated 3/8/11 was completed by Claimant. Claimant noted she has an irregular heartbeat which causes her heart to go "into afib". She noted that she gets short of breath. It was noted Claimant was prescribed the following medications: Ateholo (50 mg), Levothyroxin (25 mg), Verapomil (240 mg), Coumadin (5 mg), Tylenol (500 mg) and Zestoretic (20-25 mg). Claimant also noted that she uses an inhaler.

A Medical Examination Report dated 3/10/11 (Exhibits 74-75) completed by Claimant's treating physician was presented. Claimant was diagnosed with the following: coronary artery disease, asthma, hypothyroidism, migraine headaches, Afib, anticoagulation and hyperlipidemia. Claimant's EF was noted as 82%. Her condition was noted as stable. Claimant's physician noted Claimant has a history of heart problems and "requires routine imagining and cardiology specialty evaluation".

A Social Summary (Exhibits 9-10) dated 4/25/11 was completed by the testifying DHS specialist. It was noted Claimant sought disability based on problems including: asthma, migraines, deafness in left ear and atrial fibrillation (Afib). The specialist noted Claimant walked slowly, appeared in distress over an upcoming hearing with SSA. It was noted Claimant was hospitalized in 2011 due to an irregular heartbeat and fatigue.

An Activities of Daily Living (Exhibits 76-80) dated 3/8/11 was completed by Claimant. Claimant noted she has trouble sleeping due to "a lot of issues". Claimant states she takes naps during the day and noted she gets tired when she has an Afib attack. Claimant indicated she fixes her own meals but it takes her some time to do it. Claimant also does her own housework and shopping. The form was consistent with Claimant's testimony concerning her abilities to drive and perform household chores. Claimant testified that she does not shop because it is too difficult for her to walk.

Claimant testified to suffering migraine headaches. This complaint was documented in Claimant's medical documents though there was no specific explanation given for the complaint.

Medical documents note that Claimant believes that her irregular heartbeat began in approximately 2005 following a heart attack (see Exhibit 6). Claimant testified she suffers from asthma. Claimant stated that it is worse because of the Afib that she also suffers. She stated that the Afib causes her blood pressure to drop. She says she feels very tired as a result. Claimant also testified feeling dizzy and short of breath due to her Afib and asthma.

Claimant noted she has a chipped tailbone though there was no medical documentation supporting this complaint. Claimant stated she used to use a cane to help her ambulate though she conceded she does not use one now. Claimant stated she was hospitalized on three different occasions since 2/2011 due to the Afib.

There was but a smidge of evidence (Claimant's complaints of depression) concerning impairment to the performance of non-physical basic work activities. There is no medical documentation supporting Claimant ever sought treatment or requires treatment for depression. All evidence points to Claimant being capable of performing basic work activities such as following instructions, communicating effectively and exercising judgment.

There was a sufficient basis to consider Claimant's Afib and heart issues to be a severe impairment. In particular, the restrictions on Claimant's sitting, standing, lifting would be severe limitations to the performance of any physically-cased basic work activities. The evidence tends to support a finding that the impairment has, or will continue to last beyond a 12 month period. Accordingly, it is found that Claimant established a severe impairment and the analysis may proceed to step three.

Claimant's primary impairment is heart related. Cardiovascular listings are covered by Listing 4.00. The most relevant listing to Afib is the listing covering recurrent arrhythmias. This listing reads:

4.05 Recurrent arrhythmias, not related to reversible causes, such as electrolyte abnormalities or digitalis glycoside or antiarrhythmic drug toxicity, resulting in uncontrolled (see 4.00A3f), recurrent (see 4.00A3c) episodes of cardiac syncope or near syncope (see 4.00F3b), despite prescribed treatment (see 4.00B3 if there is no prescribed treatment), and documented by resting or ambulatory (Holter) electrocardiography, or by other appropriate medically acceptable testing, coincident with the occurrence of syncope or near syncope (see 4.00F3c).

Listing 4.00F3a outlines that Listing 4.05 applies when a claimant has arrhythmias that are not fully controlled by medication, an implanted pacemaker, or an implanted cardiac defibrillator and the claimant has uncontrolled recurrent episodes of syncope or near syncope. "Near syncope" is defined as a period of altered consciousness, since syncope is a loss of consciousness or a faint. It is not merely a feeling of light-headedness, momentary weakness, or dizziness. SSA also dictates that there must be a documented association between the syncope or near syncope and the recurrent arrhythmia. The recurrent arrhythmia, not some other cardiac or non-cardiac disorder, must be established as the cause of the associated symptom. This documentation of the association between the symptoms and the arrhythmia may come from the usual diagnostic methods, including Holter monitoring (also called ambulatory electrocardiography) and tilt-table testing with a concurrent ECG.

The medical documentation was well established that Claimant suffers recurrent arrhythmias. Statements from Claimant's physician, hospital records and testimony all document Claimant's recent history of severe problems with Afib caused by arrhythmia.

There is little evidence supporting what is causing Claimant's Afib. Claimant underwent a stress test and some other testing but no Holter monitoring or tilt-table testing occurred. There is no evidence that Claimant suffered any loss of consciousness (i.e. syncope) or near syncope. The lack of this symptom is definitive evidence that Claimant does not meet the listed impairment for recurrent arrhythmias.

The medical records frequently reference Claimant's asthma. The listed impairment for asthma is covered by Listing 3.03. This listing was considered and rejected because there is an absence of evidence establishing chronic asthmatic bronchitis or asthma attacks.

Though there are references to other impairments (depression and knee pain) those listings were not considered because there was insufficient evidence to establish either impairment as an ongoing problem. It is found that Claimant failed to establish meeting a listed impairment. Accordingly, the analysis proceeds 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.

Claimant testified she had previous employment as a cashier. Claimant stated that her duties including traditional cashier duties which required extended periods of standing. Claimant also stated that she was responsible for making coffee. She stated she routinely was required to lift items weighing 20 pounds. She testified that she was let go for reasons unrelated to her impairments.

Claimant also testified she had employment as a machine operator. Claimant indicated that her job involved lifting and feeding automobile parts into a machine. She states she was routinely expected to lift items weighing 40-50 pounds.

Claimant also mentioned that she briefly worked as an envelope stuffer. This employment will not be considered in the analysis as Claimant stated the job only lasted a few days. because the job lasted only a few days, it would not meet the SGA definition required for the RFC analysis.

A Physical Residual Functional Capacity Questionnaire (Exhibits 83-86) dated 6/12/11 was completed by a nurse practitioner. Claimant's symptoms of shortness of breath, palpitations, dizziness and anxiety were noted. Claimant was noted as depressed and with anxiety. Claimant was noted as incapable of even low stress jobs. It was noted Claimant experiences hourly palpitations when exerted. Claimant was noted as incapable of walking even a single city block without severe pain. Claimant was limited to sitting for 20 minute periods before needing to stand; and standing for five minute periods before needing to sit. Claimant was limited to standing and sitting for less than a two hour period within an eight hour day. It was noted Claimant needs a walking device and is rarely able to lift less than ten pounds. Claimant was found to be never capable of stooping, crouching and climbing ladders. She was rarely cleared to climb stairs and occasionally cleared to twist. Claimant was given significant limitations with reaching, handling and fingering though it was not noted what percentage of a workday Claimant would be limited from those activities.

There is no particular known reason to doubt the accuracy of the above work restrictions. Based on those given work restrictions, Claimant could not work as a cashier due to the limits on her standing. Claimant could not return to work as a machine operator due to the lifting requirements. It is found that Claimant is not capable of returning to past employment. Accordingly, the analysis proceeds to step five.

In this, the fifth and last step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national

economy. SSR 83-10. 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 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).

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.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

The best evidence in determining Claimant's work capability was the RFC Questionnaire (Exhibits 83-86). Claimant's lifting restrictions of 10 pounds or less would automatically place her at sedentary employment, at most. Further, Claimant's sitting and standing restrictions would make even sedentary employment medically impossible. It is found Claimant is incapable of less than sedentary employment.

Though it is plausible that there are some jobs which would comply with Claimant's work restrictions, DHS did not provide any evidence that such jobs exist. In the absence of a vocational analysis which establishes that there are jobs which require less than sedentary capabilities, it can only be found that no such jobs exist. It is found that Claimant's RFC restricts her from performing SGA within the national economy. Thus, Claimant is a disabled individual. Accordingly, the DHS denial of Claimant's application for MA 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).


Claimant has already been found to be disabled for purposes of MA benefits based on a finding that Claimant's RFC prevents her from performing SGA within the national economy. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS improperly denied Claimant's application for SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for MA and SDA benefits. It is ordered that DHS:

- (1) reinstate Claimant's SDA and MA benefit applications respectively dated 2/11/11 and 4/28/11;
- (2) upon reinstatement, evaluate Claimant's eligibility for MA and SDA benefits based on a finding that Claimant is a disabled individual;
- (3) supplement Claimant for any benefits not received as a result of the improper denial; and
- (4) if Claimant is found eligible for future MA and SDA benefits, to schedule a review for MA and SDA benefits for one year from the date of this administrative decision.

The actions taken by DHS are REVERSED.


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

201135862/CG

Date Signed: October 4, 2011

Date Mailed: October 4, 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 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.

CG/hw

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