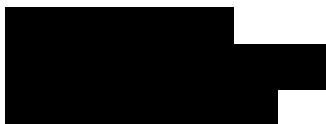


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No. 201138425  
Issue No. 2009 4031  
Case No. [REDACTED]  
Hearing Date: September 20, 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 September 20, 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**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) 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 3/10/11, Claimant applied for SDA and MA benefits including retroactive MA benefits back to 12/2010.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 6/1/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (See Exhibits 1-2).
4. On 6/9/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 6/14/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 7/14/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 103-104) based, in part, on application of Vocational Rule 202.21.
7. As of the date of the administrative hearing, Claimant was a 45 year old male (DOB 5/20/66) with a height of 5'11 " and weight of 236 pounds.
8. Claimant is a former smoker, but has no known relevant history of alcohol or illegal drug usage.
9. Claimant's highest education year completed was the 12th grade via obtainment of a general equivalency degree.
10. Claimant has no current health insurance and has not received any medical coverage since 2005.
11. Claimant stated that he is a disabled individual based on impairments of numbness in legs and arms, shoulder pain, hip pain, vision problems, sleep apnea, diabetic neuropathy, high cholesterol and angina.

### **CONCLUSIONS OF LAW**

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

The controlling DHS regulations are those that were in effect as of 3/2011, the month of the application which Claimant contends was wrongly denied. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

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

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

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

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

Substantial gainful activity means a person does the following:

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

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

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

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

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

In the present case, Claimant denied having any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 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, all relevant evidence may be considered. The analysis will begin with the submitted medical documentation. Some documents were admitted as exhibits but were not necessarily relevant to the disability analysis; thus, there may be gaps in exhibit numbers.

A Social Summary (Exhibits 3-4) dated 5/6/11 was completed by a DHS specialist. Claimant's complaints of diabetes, high blood pressure, high cholesterol, heart disease, arthritis and sleep apnea were noted. The specialist noted that Claimant appeared to be in pain.

A Medical- Social Questionnaire dated 8/20/11 was completed by Claimant. Claimant listed the following illnesses: polymyalgia, COPD, sleep apnea, cirrhosis, frequent angina, hypertension, diabetes, high cholesterol and extreme eye damage. Claimant provided other medical information including the last three times he went to the hospital: a 2009 admission concerning abdominal pain when he had his gallbladder and a hernia removed, a 2010 emergency room visit for angina and a 3/2011 admission concerning angina. Claimant noted taking several prescriptions including: Nitrostat (for angina), Metroproloc (for heart rate), Glucophage (for diabetes), Lipitor (for cholesterol), Trazadone (for sleep apnea), Ambien (for sleep apnea), Niacin (for fatigue), Lyrica (for myalgia) and Vicodin (for pain).

A Medical Examination Report dated 3/22/11 was completed by Claimant's treating physician. Claimant was diagnosed with hypertension, angina, dyslipidemia and LBP (presumably intended to mean lower back pain). Claimant's complaint history included: uncontrolled diabetes, blood pressure, lower back pain, chest pain and pain. It was noted that Claimant can meet his home needs. An impression of stable and deteriorating concerning Claimant's conditions was provided.

A handwritten letter (Exhibit 12) dated 5/17/11 was presented. The letter was written by a person with unknown credentials stating that Claimant underwent a sleep study as was confirmed to have sleep apnea. The letter also indicated that he was given a machine for assistance with the sleep apnea and that it was expected to be returned if he is eligible for benefits in the future. A letter (Exhibit 13) from a physician dated 3/29/11 noted a high probability of sleep apnea. Additional 2011 documents (Exhibits 14-19) from a sleep study performed on Claimant confirmed that Claimant suffers from sleep apnea.

Hospital documents (Exhibits 22-24) from an admission date of 3/2/11 were presented. Claimant was admitted for observation. A dobutamine echo showed normal ejection fraction and PA pressure. An ECG was performed which showed "suboptimal results"; Claimant showed chest pain during the test and was shown to have 72% of the predicted maximum heart rate. Claimant was discharged in "good" condition on 3/4/11 and advised to follow-up with his physician.

Claimant was physically examined on 3/2/11 by an emergency room hospital physician; the accompanying report (Exhibits 36-45) was presented. Claimant complained of chest pains. It was noted that Claimant was sweating. An EKG revealed normal cardiac rhythm, normal axis, normal intervals, normal ST segment and no notable changes from an unspecified prior EKG. Claimant was given a diagnosis of angina with additional diagnoses of cirrhosis, diabetes and hypertension.

Claimant went to the hospital on 5/2/11 complaining of general body aches and pains; the hospital documents (Exhibits 46-47) were presented). The examining physician found no evidence of arthritis in joints of the hands, wrists, elbows, knees, ankles or feet. Claimant had an unspecified limited range of motion in the cervical spine. Claimant was able to touch his toes. Straight leg raising test was negative.

An impression of chronic musculoskeletal pain was provided. A recommendation of lifestyle changes, physical conditioning and weight loss were given.

Several documents (Exhibits 48-94) related to Claimant's sleep apnea testing were presented. The documents were not particularly notable other than verifying a diagnosis of obstructive sleep apnea.

Claimant completed an Activities of Daily Living (Exhibits 95-99) dated 8/20/11, a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant responded he had sleeping difficulties; specifically he noted that he was "up and down all night", had frequent urination due to diabetes and experienced pain and restlessness. Claimant noted he cooks and cleans

with his wife. Claimant noted that he is social and that friends and family visit him almost daily.

Based on Claimant's "extreme eye damage" complaints, visual testing was ordered. The documents were presented following the hearing (Exhibits 105-107). The examining physician concluded that Claimant does not have any eye disease and his prognosis is good. It was indicated that Claimant has "some difficulties with his visual functioning" without eyeglasses. With eyeglasses, Claimant was described as having "excellent visual acuity". Based on the testing, it is found Claimant has no severe impairment concerning vision.

Claimant's history reveals several trips to the hospital, some resulting in hospital admission, some not. Claimant's history and complaints of hypertension, myalgia, sleep apnea, diabetes and high cholesterol were established by the references in Claimant's medical history and/or direct treatment records. Note that the medical documents failed to identify specific limitations.

Claimant testified that he is able to walk and stand but experiences some hip pain; he stated he also has pain when bending and has difficulty in returning to a standing position after squatting. He testified that he can sit without limitations. Claimant states he is unable to hold items. Claimant says he gets winded when using stairs. Claimant stated that he has good days and bad days. Claimant states that he performs lawn work but is slow; no evidence was taken as to how slow. Claimant states that he drives but not very often.

Claimant's testimony describing limits on his physical abilities are reasonable based on the presented medical documents. Claimant's limitations are not well defined but are sufficient to meet the de minimus requirement for step two of the disability analysis.

Based on multiple hospital visits, Claimant's complaints have persisted over several years. There is no reason to believe that Claimant's impairments do not satisfy the 12 month duration requirement. Accordingly, it is found that Claimant has impairments amounting to a severe impairment. Accordingly, the disability analysis moves to step three.

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

Claimant alleged multiple impairments including: myalgia, diabetes, angina, sleep apnea, vision and high cholesterol. The impairment with the most supporting evidence was Claimant's angina. Angina is best covered by Listing 4.05 which reads:

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

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

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

OR

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

OR

**C.** Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:
    - a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
    - b. 70 percent or more narrowing of another nonbypassed coronary artery;
- or

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

Though Claimant shows signs or symptoms of myocardial ischemia based on a previous EKG and physician diagnosis of angina, Claimant does not meet any of the above requirements to establish ischemic heart disease. There is no medical evidence of Part A. There is no evidence that Claimant has ever required revascularization. There is also no evidence that Claimant has a narrowing of any arteries or that Claimant's activities of daily living are seriously limited.

Claimant's vision complaints are covered by Listings 2.02 which requires "remaining vision in the better eye after best correction is 20/200 or less" for a person to be considered disabled". An alternate listing would be Listing 2.04 which requires "visual efficiency of the better eye of 20 percent or less after best correction". Claimant's vision is correctable to 20/30 for each eye. Claimant's vision issues nowhere near approaches the loss required to establish meeting a listing for disability.

Claimant's generic complaints of joint pain would be covered by Listing 1.02 which covers major joint dysfunction. Claimant fails to meet this listing as there is no evidence that Claimant fails to ambulate effectively. Claimant provided testimony that he struggles with holding items but there is no medical evidence of a gross anatomical deformity, a requirement for meeting the listed impairment

Diabetes is covered by Listing 11.00. Although diabetes is not itself a listed impairment, effects of diabetes may be sufficient to establish meeting a different listed impairment based on the symptom. In the present case, there was no evidence of any effects of diabetes outside of those already discussed.

Claimant's sleep apnea is covered by Listing 3.10. Despite substantial records concerning the sleep apnea, there was no evidence that Claimant met the respiratory limit requirements or the mental requirements for the disorder.

Claimant's high cholesterol does not have an SSA listing and was not considered for step three of the analysis. As Claimant failed to establish meeting a SSA disability listing, the process 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

In the last 15 years, Claimant only listed work for a five year period as a die setter (see Exhibit 7). Claimant described the job as requiring a lot of bending and hard turning. Claimant states that his inability to grip items would prevent him from returning to this type of employment. Accepting Claimant's testimony as accurate, it is found that Claimant is not able to return to previous employment. Accordingly, the analysis moves 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)

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 evidence supports a finding that Claimant is capable of performing at least sedentary employment. Claimant did not assert any sitting limitations. Claimant had minor standing and walking limitations but nothing that would inhibit Claimant's performance of sedentary employment. There is also no evidence to doubt that Claimant is capable of occasionally lifting objects weighing up to ten pounds. It is found that Claimant is capable of at least sedentary employment.

The expected outcome remains the same whether Claimant is capable of sedentary or a more strenuous type of employment. It is possible that Claimant is capable of work more strenuous than sedentary work (though possibly not), however, for purposes of this decision, the analysis will end with the finding that Claimant is capable of sedentary employment.

Claimant is a younger individual (aged 45-49), with a high school equivalent education and a history of skilled or semi-skilled employment with non-transferrable skills. Based on the finding that Claimant is capable of sedentary employment, Vocational Rule 201.21 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly determined Claimant not to be disabled for purposes of MA benefits.

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

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

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

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

It has already been found that Claimant is not disabled for purposes of MA benefits, based on the finding that Claimant is capable of performing a sedentary level of employment and that the applicable vocational rule directs a finding that Claimant is not

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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.



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

Date Signed: 12/2/11

Date Mailed: 12/2/11

**NOTICE:** Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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

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

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

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

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

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cc:

