

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-41312  
Issue No: 2009/4031  
Case No: [REDACTED]  
Hearing Date:  
October 19, 2011  
Dickinson County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on June 29, 2011. After due notice, a telephone hearing was held on October 19, 2011. Claimant personally appeared and testified.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P), Retro-MA and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

- (1) On February 1, 2011, Claimant applied for MA-P, Retro-MA and SDA.
- (2) On June 10, 2011, the Medical Review Team (MRT) denied Claimant's MA application indicating Claimant was capable of performing other work, pursuant to 20 CFR 416.920(f). SDA was denied due to lack of duration under BEM Item 261. (Department Exhibit A, pages 3-4).
- (3) On June 15, 2011, the department caseworker sent Claimant notice that his application was denied.
- (4) On June 29, 2011, Claimant promptly requested a hearing at which, the presiding Administrative Law Judge granted Claimant's request for a record extension to submit updated examination and treatment documents.

- (5) On August 4, 2011, the State Hearing Review Team (SHRT) upheld the denial of MA-P, Retro-MA and SDA benefits indicating Claimant retains the capacity to perform light unskilled work. (Department Exhibit B, pages 1-2).
- (6) On October 19, 2011, Claimant's additional medical documentation was forwarded to SHRT.
- (7) On November 30, 2011, SHRT upheld the denial of MA-P, Retro-MA and SDA benefits stating Claimant retains the capacity to perform a wide range of simple, unskilled, sedentary work. (Department Exhibit C, pages 1-2).
- (8) Claimant has a history of lumbar degenerative disc disease with lumbar radiculopathy, status post L4-L5 laminectomy and artificial disc implant in 2006 now with recurrent chronic low back pain and left radicular pain, migraines, asthma, major depressive disorder, generalized anxiety disorder, and a noncalcified pulmonary nodule in the right middle lobe.
- (9) On August 4, 2010, Claimant saw his doctor for the first time, complaining of chronic low back pain, with recurrent pain radiation to his left buttock. He reported he was depressed, had increased anxiety, decreased concentration and focus, and poor sleep quality, starting six months ago. He had a history of migraine headaches and some intermittent congestive problems. He denied any history of alcohol use or past or present illicit drug use. He smokes half a pack a day. He was mildly depressed and had a flat affect. An MRI was ordered to re-assess lumbar disc disease and chronic low back pain. A CT scan of his thorax was also ordered to assess a pulmonary nodule. Cymbalta, Neurontin, Tramadol, and an Albuterol inhaler were prescribed. (Claimant's Exhibit A, pages 81-84).
- (10) On August 16, 2010, Claimant's thorax CAT scan showed a 6 mm pulmonary nodule in the right middle lobe. There was scarring of the right lung apex. A 3 mm polar nodule was seen in the inferior right middle lobe. There were several sub centimeter calcified granulomas in the caudate lobe of liver. The CAT scan was unchanged from the previous study of 3/3/10. The MRI of Claimant's lumbar spine compared with the study of 7/27/05 showed mild disc desiccation at the L3-L4 similar to the previous study, but no focal disc protrusion or extrusion or significant central or foraminal narrowing was noted. At L4-L5, there was evidence of interval disectomy with interbody fusion and presence of a steel cage. (Department Exhibit B, page 5).
- (11) On October 4, 2010, Claimant saw his doctor and reported that his low back pain remains essentially unchanged in severity and character and

that the Tramadol, combined with Naprosyn, did not significantly relieve his pain intensity. He did report sleeping better with improved sleep quality and less fatigue. He also reported a slight improvement in mood and decreased anxiety. He continued to have low back pain, rated at a 6-7/10 in intensity with radiation into his left buttock. He reported one migraine since his last visit. (Claimant Exhibit A, pages 73-76).

- (12) On December 2, 2010, an x-ray of Claimant's lumbar spine was compared to his x-ray from 10/30/10 and revealed no significant change. Claimant's chest x-rays were also compared with x-rays from 10/30/10 and showed questionable interstitial infiltrate of right lower lung. Clinical history of right flank pain and leukocytosis raises possibility of pyelonephritis. (Claimant's Exhibit A, page 103-104).
- (13) On December 6, 2010, Claimant saw his doctor and reported that his low back pain was slightly worse since his last visit. He was angry as he felt that his doctor had not been listening to him or responding to his worsening back pain. He reported no relief from his intolerable pain with his current medical regimen. His mood was much worse and he reported thinking about suicide but insisted that he was not going to act on that thought. He continued to have low back pain, rated at an 8-9/10 in intensity, with radiation into his left buttock. He reported two migraine headaches since his last visit. (Claimant Exhibit A, pages 65-68).
- (14) On December 13, 2010, Claimant saw his doctor and was feeling better with decreased pain intensity with the use of Vicodin and Tramadol. He reported that his low back pain was less intense since his last visit. He was sleeping poorly, obtaining about 3-4 hours of sleep per night on average, with frequent awakenings due to exacerbations of pain. His mood was unchanged from his previous visits, and he reported racing thoughts at night and persistent depressed mood. He reported his low back pain at 6-7/10 in intensity, with radiation into his left buttock. He had made no attempt to cut down or quit smoking since his last visit. (Claimant Exhibit A, pages 61-64).
- (15) On January 3, 2011, Claimant saw his doctor and reported that the Lamictal has resulted in a modest improvement in his mood, but he reported a decrease in his concentration and focus. His sleep had only marginally improved since his last visit. He continued to report a nonproductive cough. He continued to have low back pain which was essentially unchanged in intensity from what he reported at his last visit. He was still quite frustrated at the lack of significant improvement of his low back pain and his left radicular leg pain as a result of his medical treatment. (Claimant Exhibit A, pages 57-60).

- (16) On January 7, 2011, an MRI of Claimant's lumbar spine showed a large amount of signal dropout artifact centered at the L4-L5 level. The lumbar spine vertebral bodies appeared normal in height. The conus medullaris terminated at the L1 level. There was mild central disc bulging at the L3-L4 level. There was mild bilateral neural foraminal stenosis. No significant change when compared to previous examination on 8/16/10. (Department Exhibit B, page 10).
- (17) On April 8, 2011, Claimant saw his doctor and reported that his back pain was slightly improved and his mood was significantly improved with the increased dose of Lamictal. Since his last visit he had made no attempt to cut down or quit smoking. He reported one migraine headache since his last visit. Options for interventional pain management versus neurosurgical evaluation and treatment were discussed. He was apprehensive of epidural injections, but willing to try them after respiratory infection resolved. He was advised to quit smoking now. (Department Exhibit A, pages 25-28).
- (18) On April 14, 2011, Claimant reported to the emergency department with passive suicidal thoughts and "anger outbursts." He recently lost social security disability, Medicaid, all benefits. He was on medication for depression and chronic pain issues. His appearance was within normal limits. He was cooperative and calm. His speech was pressured but his communication was normal. He had a blunted affect and a fair appetite. He was anxious and sleeping poorly. He was oriented to person, place and time and his memory and judgment were intact. He was unable to focus on treatment planning. He reported that he has used marijuana since the age of 14 and acknowledged dependence. (Claimant Exhibit A, pages 6-13, 15).
- (19) On April 22, 2011, Claimant returned to his doctor for follow-up. He reported his mood swings were still fairly moderate in severity, but he stated that the Prozac seemed to be working fairly well. He continued to have pain in his back and right foot, but that his right ankle sprain has mostly healed. His back pain was slightly improved from what he reported at his last visit, and he reported his pain intensity as a 5-6/10. (Department Exhibit A, pages 20-22).
- (20) On May 16, 2011, a cat scan of Claimant's abdomen and pelvis showed mild thickening of the wall of the sigmoid colon and rectum, although there was no distention of the structures which limits their evaluation and can cause apparent wall thickening. Otherwise, it was an unremarkable cat scan of the abdomen and pelvis. The x-ray of Claimant's abdomen also showed no evidence of bowel obstruction or perforation. Claimant's chest x-rays showed no evidence of acute cardiopulmonary disease. (Claimant's Exhibit A, pages 94-99).

- (21) On June 5, 2011, an x-ray of Claimant's abdomen showed no evidence of bowel obstruction or perforation. (Claimant Exhibit A, page 93).
- (22) On June 7, 2011, Claimant saw his doctor and reported he was recently seen in the emergency room for an acute episode of diverticulitis. He was placed on antibiotics and was feeling much better with complete resolution of his abdominal pain. (Department Exhibit B, pages 6-9).
- (23) On June 8, 2011, Claimant underwent a colonoscopy. A polyp was removed for biopsy. (Claimant's Exhibit A, pages 87-92).
- (24) On June 14, 2011, Claimant saw his doctor and reported that his mood swings were mild in severity and the Prozac seemed to be working fairly well in that his mood swings were less since his last visit. He continued to have persistent low back pain, only slightly improved since last visit. He reported his pain intensity was 5-6/10. He was sleeping a little better than what he reported at the time of his last visit and his mood was significantly improved with the increased dose of Lamictal. He underwent an EGD and colonoscopy and it revealed a mild GERD and esophagitis, diverticulosis and a benign rectal polyp that was removed. He is obtaining adequate pain relief with his current medical regimen and he stated the pain is tolerable most of the time. He had mild diffuse expiratory wheezing with prolonged expiratory phase. Gait slightly antalgic. Romberg negative, Babinski negative bilaterally. Mild tenderness over the lower lumbar area diffusely, negative straight leg raise bilaterally. (Department Exhibit B, pages 3-5).
- (25) On July 19, 2011, Claimant was evaluated by his psychiatrist. He presented with symptoms of depression and recent suicidal ideation. He had anxiety and anger, though he denied that. He was not keeping up with personal hygiene, has a severe sleep disturbance, and his appetite was poor with weight loss. He was encouraged to do as much for himself as he could, although it hurts, because he may lose muscle tone if he has other people putting his shoes on for him and do other activities of daily living for him. GAF 42. (Claimant Exhibit A, pages 3-5).
- (26) On August 31, 2011, two unilateral views of Claimant's ribs showed no abnormality or splenomegaly. Chest x-rays were also taken and compared to the exams of 2/2/05, 8/11/10 and 6/5/11 and showed a normal chest. (Claimant's Exhibit A, pages 85-86).
- (27) On September 7, 2011, Claimant saw his psychiatrist for a medication review. He stated he liked the Seroquel. He was sleeping better and his mood was a little better. He stated he was on the verge of feeling helpless and his memory was poor. He had not been keeping his appointments

because he could not remember them. He stated that if he does not use his marijuana, then no one wants to be around him. He continues to take the Tramadol and Hydrocodone. He did not feel that it was particularly helpful, but he keeps taking it. He said not too long ago he fell at home and hit his 8<sup>th</sup> rib and fractured it. He was using a cane though there was no evidence of ataxia, he was limping. Affect was more on the constricted side and he did not smile. He seemed to be angry even though he adamantly denied it. There was a little bit of a foul odor about him as though he had not bathed in a few days. He also needed a shave. Mood looked depressed and his eyes also seemed to be glazed, though his pupils did not look dilated or constricted. Insight and judgment were limited. He meets criteria for recurrent major depression, but he has a significant history of compounding factors and symptoms including what appeared to be episodes of hypomania throughout the course of his life. He did not receive his medical marijuana card until December 2010. (Claimant Exhibit A, pages 1-2, 13).

- (28) Claimant is a 38 year old man whose birthday is [REDACTED]. Claimant is 5'10" tall and weighs 140 lbs. Claimant completed the eleventh grade and last worked in 2009.
- (29) Claimant was appealing his denial of Social Security disability at the time of the hearing.

#### 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). The Department of Human Services (DHS or department) 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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

. . . the inability to do any substantial gainful activity 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 set order is used to determine disability, that being a five-step sequential evaluation process for determining whether an individual is disabled. (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. Current work activity, severity of

impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity. (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he/she has demonstrated the ability to engage in SGA. (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" and that said impairment(s) have met the duration requirement (20 CFR 404.1520(c) and 416.920(a)(2)(ii) and (c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). In order for an impairment(s) to meet the duration requirement, the impairment(s) must have lasted or be expected to last for at least 12 months, unless the impairment(s) is expected to result in death (20 CFR 416.909). If the claimant does not have a severe medically determinable impairment or combination of impairments that have met the duration requirement, he/she is not disabled. If the claimant has a severe impairment or combination of impairments that have met the duration requirement, the analysis proceeds to the third step.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment. 20 CFR 416.929(a).

Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);

- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms). 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include –

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1. (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement, (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA. (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he/she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he/she is disabled.

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

At Step 1, Claimant is not engaged in substantial gainful activity and testified that he has not worked since 2009. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, in considering Claimant's symptoms, whether there is an underlying medically determinable physical or mental impairment(s)-i.e., an impairment(s) that can

be shown by medically acceptable clinical and laboratory diagnostic techniques-that could reasonably be expected to produce Claimant's pain or other symptoms must be determined. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of Claimant's symptoms to determine the extent to which they limit Claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

At Step 2, the objective medical evidence of record shows Claimant was diagnosed with lumbar degenerative disc disease with lumbar radiculopathy, status post L4-L5 laminectomy and artificial disc implant in 2006, now with recurrent chronic low back pain and left radicular pain, in addition to major depressive disorder and generalized anxiety. The finding of a severe impairment at Step 2 is a *de minimus* standard. This Administrative Law Judge finds that Claimant established that at all times relevant to this matter Claimant was depressed and had back problems which would affect his ability to do substantial gainful activity. Therefore, the analysis will continue to Step 3.

At Step 3 the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

At Step 4, Claimant's past relevant employment was working as a truck driver. At Step 4, the objective medical evidence of record is not sufficient to establish that Claimant has severe impairments that have lasted or are expected to last 12 months or more and prevent him from performing the duties required from his past relevant employment for 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform other jobs.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if

walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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. 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, the burden of proof shifts to the department to establish that Claimant has the residual functional capacity to do substantial gainful activity. The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. See discussion at Step 2 above. Findings of Fact 9-31.

At Step 5, the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least sedentary work duties. Claimant alleges he suffers from depression, bipolar disorder and back pain since surgery. Claimant stated he has anger outbursts and cannot do anything anymore. Claimant testified that his doctor restricted him to lifting no more than 10 pounds and he has to have someone assist him get off the toilet because his legs fall asleep after five minutes. Claimant also stated that he cannot remember to take his medication.

Claimant's MRI on January 7, 2011, showed mild central disc bulging at the L3-L4 as well as mild bilateral neural foraminal stenosis. There were no disc protrusions or extrusions or significant central or foraminal narrowing noted and no significant changes from the previous examinations on 8/16/10 and 7/27/05.

In June 2011, Claimant reported that his mood swings were mild in severity and the Prozac seemed to be working fairly well in that his mood swings were less since his last visit. He also reported he was sleeping better and his mood had significantly improved with the increased dose of Lamictal. He was also obtaining adequate pain relief on his current medical regimen and stated that his pain was tolerable most of the time. He had mild tenderness over the lower lumbar area diffusely, and negative straight leg raise

bilaterally. In September 2011, Claimant saw his psychiatrist and told her that he liked his Seroquel. That he was sleeping better and his mood was a little better.

Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does establish that Claimant has the residual functional capacity to perform other work. As a result, Claimant is disqualified from receiving disability at Step 5 based upon the fact that the objective medical evidence on the record shows he can perform sedentary work. Under the Medical-Vocational guidelines, a younger individual 18 - 49 (Claimant is 38 years of age), with a limited education (Claimant completed the eleventh grade) and an unskilled work history, is not considered disabled pursuant to Medical-Vocational Rule 201.24. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

Claimant has not presented the required competent, material, and substantial evidence which would support a finding that Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Claimant has cited medical problems, the clinical documentation submitted by Claimant is not sufficient to establish a finding that Claimant is disabled. There is no objective medical evidence to substantiate Claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p 1. Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that Claimant is unable to work for a period exceeding 90 days, Claimant does not meet the disability criteria for State Disability Assistance benefits either.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant was not eligible to receive Medical Assistance, Retro-MA and State Disability Assistance.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied Claimant's application for Medical Assistance, Retro Medical Assistance and State Disability Assistance.

Accordingly, the department's decision is AFFIRMED.

It is SO ORDERED.

/s/  
\_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 12/28/11

Date Mailed: 12/28/11

**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.

VLA/ds

■ [REDACTED]