

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

IN THE MATTER OF:



Reg. No: 201146162
Issue No: 2009
Case No: [REDACTED]
Hearing Date: May 17, 2011
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

ORDER OF RECONSIDERATION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 24.287(1) and 1993AACRS R 400.919 upon the request filed by claimant's representative requesting on reconsideration on July 5, 2011.

ISSUE

Whether the ALJ erred by not finding claimant:

1. Disabled under step 5 of vocational rule 202.11 sited at page 5 of the original Decision and Order dated June 3, 2011,
2. Significantly physically limited in his ability to perform basic work activities,
3. Had subjective complaints consistent with the objective medical evidence, and
4. Is of advanced age pursuant to 20 CFR 416.963(d) and determining him disabled under vocational rule 201.02.

FINDINGS OF FACT

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

1. The finding of facts in the original D&O dated June 3, 2011 are hereby adopted and made part of this order of reconsideration.

CONCLUSIONS OF LAW

The conclusions of law in the original D&O dated June 3, 2011 are hereby adopted and made a part of this order of this reconsideration.

ISSUE 1

The claimant misread the vocational rules cited on page 5 of the original D&O as 202.11. The original D&O sites vocational rule 201.11 on page 5.

ISSUE 2

The ALJ has already ruled in favor of the claimant based on his inability to perform basic work activities at Step 2.

ISSUE 3

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

The medical reports introduced by the claimant were examination, diagnostic, and treatment reports. They do not provide medical assessments of the claimant's physical work limitations/restrictions in order to determine whether he is without a residual functional capacity for sedentary work, as defined below.

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).

ISSUE 4

The undisputed evidence for record established the claimant's age of 53 on date of Medicaid application. Pursuant to 20 CFR 416.963(c) claimant was approaching advanced age and not advanced age. Therefore vocational rule 201.02 does not apply to this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the original decision is correct, and accordingly, the original decisions stands.

It is noted in the alternative that a sequential analysis results in a denial pursuant to medical vocational grid rule 201.11.

/s/

William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 25, 2012

Date Mailed: April 25, 2012

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.

WAS/las

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