

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201221071
Issue No. 2009 4031
Case No. [REDACTED]
Hearing Date: February 27, 2012
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 February 27, 2012 from Detroit, Michigan. The claimant appeared and testified. 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 9/29/11, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 12/12/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).
4. On 12/15/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 12/21/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 2/3/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 118-119) based, in part, by application of Medical-Vocational Rule 201.24.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male [REDACTED] with a height of 5'6" and weight of 200 pounds.
8. Claimant has no known relevant history of alcohol, tobacco or illegal substance abuse.
9. Claimant's highest education year completed was the 8th grade.
10. As of the date of the administrative hearing, Claimant had no medical coverage and last received coverage in approximately 2009.
11. Claimant contended that he is a disabled individual based on impairments of diabetes, lower back pain (LBP), leg pain, poor eyesight and foot numbness.

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 9/2011, 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 (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).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other 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 exhibits numbers.

A Social Summary (Exhibits 9-10) dated [REDACTED] was presented. A Social Summary is a standard DHS form to be completed by DHS specialists which notes alleged impairments and various other items of information. It was noted that Claimant reported impairments of diabetes, inability to stand/sit, poor eyesight and depression. Claimant reported chronic pain. It was noted that Claimant uses marijuana to help relieve his pain. The specialist observed that Claimant walked with a cane and appeared to show distress from pain.

A Medical Social Questionnaire (Exhibits 5-7) dated [REDACTED] was presented. The form is intended to be completed by clients for general information about their claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. Claimant noted impairments of type 2 diabetes, poor eyesight, difficulty sitting and standing and depression. Claimant noted four hospital trips since 2009 due to diabetes complications.

A Psychological Report dated [REDACTED] was presented. Claimant reported thoughts of suicide and hurting others. A previous jailing from a fight was noted. Claimant reported that he cannot work due to his leg pain. Claimant sought psychological treatment but gave up after finding it too difficult without any health coverage. A history of childhood abuse was noted.

The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV). Axis I represents the acute symptoms that need treatment. Axis II is to note personality disorders and developmental disorders. Axis III is intended to note medical or neurological conditions that may influence a psychiatric problem. Axis IV identifies recent psychosocial stressors such as a death of a loved

one, divorce or losing a job. Axis V identifies the patient's level of function on a scale of 0-100 in what is called a Global Assessment of Functioning (GAF) Scale. Axis I noted Post-traumatic Stress Disorder, Major depressive Disorder (recurrent moderate to severe) and marijuana abuse. Axis II was none. Axis III was "see medical records". Axis IV noted moderate. Claimant's GAF was 50-55. A GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. A guarded prognosis was given.

A physical examination report (Exhibits 11-17) dated [REDACTED] was provided. Claimant's gait was noted as unsteady, especially without a cane. Claimant was unable to walk tandem, on heels or on toes. Pin prick and vibratory sensations were noted as diminished on both feet and distal part of legs. Diagnoses of diabetes mellitus with peripheral neuropathy, hypertension and depression were provided. It was noted that Claimant's blood pressure was normal at the time of the exam. Claimant had normal range of motion in all tested areas except all tested lumbar spine and knee motions. It was noted that Claimant had a need for a walking aid. It was also noted that Claimant was limited in the abilities of standing, bending stooping, carrying, pushing and pulling; the physician did not note to what degree Claimant was limited.

Medical records (Exhibits 18-72 and 75) from an [REDACTED] dated hospital admission were presented. The records also included treatments from [REDACTED] and [REDACTED]. Claimant reported symptoms of nausea, vomiting, light-headedness, shortness of breath and abdominal pain. Claimant noted that his symptoms resembled a previous occasion when he was treated for ketoacidosis. Claimant's glucose measured level was under 200. Claimant was given an insulin drip to reduce the levels. Claimant's report of lower back pain was noted; it was noted that the cause was likely from neuropathy.

A medical record (Exhibit 74) dated [REDACTED] noted a hospital finding that Claimant had "abnormally high blood sugar". Claimant was given information on taking insulin.

"Final Report" hospital documents (Exhibits 77-80 and 88-97) dated [REDACTED] were presented. It was noted that Claimant complained of feeling tired. Claimant reported high blood sugar readings exceeding 300.

Hospital documents (Exhibits 76, 98-99) dated [REDACTED] noted Claimant had uncontrolled diabetes. It was noted that Claimant was released following a blood sugar level of 652. It was also noted that Claimant had an abnormal liver function test.

A Medical Needs form (Exhibit 84) dated [REDACTED] was presented. The completing physician noted Claimant had a need for assistance with toileting, mobility, laundry and housework. The physician noted Claimant was unable to work at any job for life. A blood sugar level of 653 was noted.

A physical examination report (Exhibits 100-106) dated [REDACTED] was provided. An assessment of diabetes, hypertension, depression and peripheral neuropathy were given. Claimant was noted as being able to perform all listed physical actions (e.g. sitting, standing, bending, making a fist...). Claimant's reflexes were normal. Claimant hand strength was measured at 40 pounds in each hand.

A mental examination report (Exhibits 107-109) dated [REDACTED] was provided. The examiner provided a DSM-IV diagnosis. Axis I was PTSD, Major Depressive Disorder and Panic Disorder. Claimant's GAF was noted as 45. A GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's prognosis was guarded.

Claimant completed an Activities of Daily Living (Exhibits 113-117) dated [REDACTED]; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted nighttime waking due to pain in his legs. Claimant noted that his legs burn and cramp. Claimant noted he can't stand long in the shower. Claimant noted he lost 100 pounds since he was diagnosed with diabetes. Claimant noted he performs light cleaning and shops. Claimant noted that simple walking is a major chore. Claimant reported visits from family 1-2 times per week. Claimant testified that he has experienced difficulty shopping when the store is too bright; Claimant states that the brightness hurts his eyes.

Claimant testified that he was unable to walk less than one block due to LPB. Claimant noted that he was able to sit without restrictions. Claimant estimated he was restricted to lifting more than 15 pounds and standing longer than 5-10 minutes. Claimant testified that he uses a cane to ambulate.

Based on the presented evidence, Claimant's most affected ability appears to be walking. Claimant walks with a cane. The most recent physical examination noted Claimant could not perform multiple walking tests (on heels, on toes and tandem). The limits in lumbar range of motion tend to support some degree of back pain that might affect Claimant's gait and range of motion. Claimant's testimony was generally credible though the record lacked specific support for finding that Claimant could only walk less than a city block.

Based on the presented evidence Claimant established a significant impairment to basic work activities based on his walking limitations. The evidence tended to establish that Claimant's impairments have lasted at least since 8/2011. The record tended to establish that back pain and/or neuropathy were the causes for Claimant's ambulation difficulties. These issues are not expected to notably improve within 12 months of

201221071/CG

8/2011. It is found that Claimant established meeting the durational requirements for a severe impairment.

As it was found that Claimant established significant impairment to basic work activities for a period longer than 12 months, it is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move 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 to be deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's primary impairment involved diabetes. Diabetes is not an impairment covered by SSA listings, though symptoms of diabetes may be covered. The listing which Claimant is most applicable to Claimant's inability to walk appears to be neuropathies which is covered by Listings 11.14 and 11.04B which read:

11.14 *Peripheral neuropathies.* With disorganization of motor function characterized by significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C), in spite of prescribed treatment.

As noted above, SSA defines "persistent disorganization of motor function" in 11.00C. This section reads:

Persistent disorganization of motor function in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands and arms.

There was a lack of evidence to support that Claimant experiences spasms, tremors or other involuntary movements. There is also no evidence that Claimant's fingers, hands or arms were affected. A grip strength test from 4/30/10 tends to show grossly normal hand strength which tends to support a finding that any neuropathy Claimant suffers does not affect his hands, fingers or arms.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's back pain complaints. Claimant failed to establish meeting a lower extremity dysfunction

201221071/CG

because no medical records established that Claimant had a spinal disorder resulting in a compromised nerve root.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement suffered repeated episodes of decompensation in increasing duration or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

A listing for anxiety disorders (Listing 12.06) was considered based on previous diagnoses of PTSD. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant suffered repeated episodes of decompensation in increasing duration or had a complete inability to function independently outside of his home.

A listing for visual acuity (Listing 2.02) was considered based on complaints of poor eyesight. This listing was rejected due to a failure to establish a corrected eyesight of worse than 20/200 in Claimant's worst eye.

It is found that Claimant failed to establish meeting an SSA listed impairment. Accordingly, the disability analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 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 provided a list of employment history (Exhibit 7). Claimant testified that his last job was from 3/09-6/09 as a dishwasher. Claimant stated that he had to quit due to leg pain caused by the job. Claimant stated that the job required mostly standing and lifting of up to 25 pounds.

Claimant's previous job (from 1/08-3/08) was as a cook. Claimant's reported hours of 25 /week at \$7.40/hour do not amount to SGA. Thus, this job cannot be considered in the past relevant work evaluation.

Claimant reported performed sanitation duties (from 6/07-9/07). Claimant testified that his job duties included cleaning out vents in a factory building. Claimant stated that the job required significant bending, lifting and even crawling.

Claimant reported working for 4.5 years as a janitor and then stock person for a retail business. Claimant noted his janitorial duties required mostly walking and bending. He stated that his stock duties required significant lifting.

Claimant testified that he was incapable of performing all of his previous jobs based on his limits in walking, bending and lifting. Claimant's testimony was credible and consistent with medical records.

Based on the presented evidence, it is found that Claimant is incapable of performing past relevant employment. Accordingly, the analysis moves to step five.

In 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).

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 analysis of Claimant's exertional capabilities will begin with the performance of sedentary employment. Claimant conceded the lifting requirements (no more than 10 pounds) and sitting requirements (he indicated no restrictions) of sedentary employment. It only need be considered whether Claimant can perform occasional walking and standing requirements.

The evidence tended to establish that Claimant has difficulties in walking and standing, requires the use of a cane and has an unsteady gait when his cane is not utilized. No specific restrictions were identified but Claimant testified that he is capable of walking less than a city block before his back pain prevents further walking. Though Claimant's testimony was not inconsistent with medical records, it was also not verified by medical records. It is known that Claimant has some limitation on walking (see Exhibit 14). Claimant's self-imposed restrictions are abnormally high; it would be expected that specific medical restrictions would be provided for a person so impaired. Thus, without specific medical support, it is found that Claimant is capable of performing the exertional requirements of sedentary employment.

Looking at non-exertional requirements of sedentary employment, Claimant identified several potential impairments. Claimant noted poor eyesight. Claimant's uncorrected eyesight was measured at 20/50 in his right eye and 20/30 in the left eye (see Exhibit 12). Claimant's eyesight, though imperfect, should not adversely affect Claimant's ability to perform sedentary employment.

Claimant also identified pain issues which could impair his employment. Claimant testified that he does not take pain medication (not counting marijuana). Though Claimant's reported leg and back pain no doubt exist, there is little support for finding that the pain is so extensive that Claimant is incapable of performing sedentary employment.

Finally, Claimant presented complaints of psychological restrictions. Multiple psychological examinations diagnosed Claimant with depression, PTSD and marijuana abuse. Claimant was given a guarded prognosis by both examiners. Neither examination specifically identified any specific social, adaption, concentration or other psychological restrictions on Claimant's ability to perform employment. Some evidence hinted at social problems such as a previous jailing due to a fight and thoughts of inflicting injury on others, though Claimant maintained he would not hurt anybody else and the examiners did not identify a restriction to Claimant's work potential.

Claimant established sufficient obstacles in obtaining and maintaining many forms of employment. However, based on the presented evidence, it is found that Claimant is capable of performing sedentary employment.

Based on Claimant's age (younger individual aged 18-44), education (8th grade completion but literate) and employment history (unskilled), Medical-Vocational Rule 201.24 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not 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.

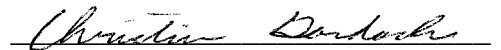
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- 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 application of Medical-Vocational Rule 201.24. 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.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied MA and SDA benefits to Claimant based on a determination that Claimant was not disabled. The actions taken by DHS are AFFIRMED.


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

201221071/CG

Date Signed: March 12, 2012

Date Mailed: March 12, 2012

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:

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

CG/hw

cc:

