

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20122432
Issue No.: 2009 4031
Case No.: [REDACTED]
Hearing Date: January 9, 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 January 9, 2012 from Detroit, Michigan. The above named 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 5/16/11, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 9/7/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 3-4).
4. On 9/14/11, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 9/29/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 12/10/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 108-109) based, in part, on application of Medical-Vocational Rule 201.27.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old female ([REDACTED]) with a height of 5'7" and weight of approximately 400 pounds.
8. Claimant smokes one pack of cigarettes per day and has been sober for 90 days as of the date of the administrative hearing.
9. Claimant's highest education year completed was the 12th grade.
10. As of the date of the administrative hearing, Claimant received health insurance through the Adult Medical Program (AMP).
11. Claimant stated that she is a disabled individual based on impairments of: blindness, bad knees, lower back pain, depression, psoriasis and headaches.

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 5/2011, 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).

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 exhibits numbers.

A Medical Social Questionnaire (Exhibits 7-9) dated [REDACTED] was presented. The DHS form is intended to be completed by applicants seeking MA based on disability so that DHS may obtain general information about the claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. Claimant noted the following impairments: "legally blind in right eye, vision loss in left eye, macular degeneration, chronic back pain, arthritis in both knees and other joint, psoriasis, asthma and bipolar disorder". Claimant noted that she gets severe headaches when working on the computer due to her eyes. Claimant noted that she suffers back and knee pain when standing or walking for long periods, Claimant noted that she cannot pick up over five pounds of weight.

Claimant noted her last four hospital trips. Claimant had two emergency room visits from [REDACTED] concerning her right knee and a third visit occurred in [REDACTED] for the same problem. Claimant noted that she was admitted to the hospital in [REDACTED] for diverticulosis.

Claimant noted that she took the following prescriptions: Vistaril, Risperdal, Celexa, Flexaril, Mobic, Zantac, Vitamin D, Advair and Ventilin. Claimant testified that some of these prescriptions have been change since [REDACTED].

A Mental Residual Functional Capacity Assessment (MRFCA) dated [REDACTED] was completed by Claimant's treating physician. This DHS form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. A therapist or physician is to rate the patient's ability to perform each of the 20 abilities as either "not significantly limited", "moderately limited", "markedly limited" or "no evidence of

limitation". Claimant was "markedly limited" in all 20 abilities. The physician also noted that Claimant suffered macular degeneration, memory loss and a lack of concentration.

A Person-Centered Plan (Exhibits 13-22) dated [REDACTED] from Claimant's treating social worker was presented. It was noted that Claimant exhibited symptoms of depression, anxiety with panic, fragmented sleep, suicidal ideation without pain, impaired focus and concentration and racing thoughts. A "longstanding history of alcohol and cannabis abuse" was noted. It was noted that Claimant has a history of homelessness from leaving a domestic violence situation. Claimant admitted to a history of verbal, physical and emotional abuse from three prior husbands. Claimant denied current suicidal ideation. Claimant also denied suffering hallucinations.

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.

Claimant was given a primary diagnosis of major depressive disorder, single episode, moderate with an SA primary diagnosis of alcohol dependence. Axis II was blank. Axis III noted hypertension, marked obesity and right eye legally blind. Axis IV noted a problem with primary support group, a problem related to social environment, housing problems, occupational problems, economic problems and problems accessing healthcare. Axis V was blank.

A Psychiatric/Psychological Examination Report (Exhibits 25-27) dated [REDACTED] from Claimant's treating physician was presented. Claimant's daily functioning was noted as "homebound- only go out to grocery shop, otherwise homebound". Claimant also wrote, "No initiative- really can't stand". A DSM-IV diagnosis was again provided. Claimant's Axis I was bipolar with alcohol dependence. Axis II was blank. Axis III noted obesity, back spasms and blind in right eye. Axis IV merely stated "problems". Axis V was noted as 50 for Claimant's current GAF level and 49 as last year's GAF.

An undated Eye Examination Report (Exhibits 30-31) was presented. Though a date was not provided, the form was printed by DHS on [REDACTED] 1. A diagnosis of myopic degeneration was provided for each eye. Claimant's right eye was also diagnosed with anisometropia. With best correction, Claimant's right eye was measured as "hm" (able to see hand motions) at far and near. Claimant's left eye was measured 20/40+ at distance and 20/20 at near.

One page of an eye examination report (Exhibit 32) dated [REDACTED] was provided, Claimant's right eye at best correction was measured at "HM". Claimant's left was measured at 20/25. The same diagnosis was provided as was given on the exam report noted above.

Claimant submitted an optometrist note (Exhibit 110) dated [REDACTED]. The optometrist noted Claimant was showing early signs of macular degeneration in her left eye and that she suffered from myopia with retinal degeneration in her right eye.

Additional medical records concerning Claimant's vision (Exhibits 33-49) were provided. A prescription form (Exhibit 36) dated [REDACTED] noted Claimant's vision was tested and Claimant's right eye visual acuity was hand motion and left eye acuity (after correction) was 20/40.

A Medical Examination Report (Exhibits 28-29; duplicated in Exhibits 50-51) dated [REDACTED] was completed by Claimant's treating physician. A diagnosis of right knee pain, obesity, blindness in right and an unreadable fourth impairment were given. Claimant's condition was noted as stable. It was noted that Claimant can meet household needs and that the conditions were stable.

A Medical Needs (Exhibits 52-53) form from the same date and physician was also provided. It was noted that Claimant needed help with housework and was not able to work at any occupation. In response to the question how long Claimant could not work at any occupation "1w" appeared to be written, presumably intended to mean one week.

Hospital documents (Exhibits 77-92) were presented. The documents stem from a Claimant hospital visit dated [REDACTED] due to complaints of ongoing right knee pain. It was noted that Claimant reported that the pain had been ongoing for six weeks. Claimant rated the pain as a 10 on a scale of 1-10. Claimant had a full range of motion of her knee. An examination showed anterior swelling and tenderness. A diagnosis of knee sprain was provided. Claimant was prescribed Vicodin (750 mg@ every four hours). An impression was given that there was no dislocation, fracture or deep venous thrombosis.

Claimant returned to the ER on [REDACTED] concerning knee pain (see Exhibits 67-76). Claimant described the pain as chronic and aching. Claimant rated the pain as an 8 on a scale of 1-10. Claimant had a full range of motion of her knee. A final diagnosis of knee pain with additional diagnoses of knee effusion and peripheral edema were provided.

Claimant returned to the ER on [REDACTED] concerning knee pain (see Exhibits 59-66). Claimant described the pain as chronic and aching. Claimant rated the pain as a 10 on a scale of 1-10. Claimant had a full range of motion of her knee. A final diagnosis of

chronic knee pain was given. Claimant was prescribed a refill for Vicodin (750 mg@ every four hours).

Claimant testified that she had a one block walking limit due to back spasms and knee pain. Claimant stated she was less restricting in standing, "but not by much". Claimant testified she had sitting limitations due to her back but did not specify her limitation. Claimant contended that she was limited to lifting 10 pounds or less due to back and knee pain. She stated that she sometimes used a cane though she did not on the date of the hearing. Claimant stated she has difficulty bending her back.

Claimant testified that she is capable of bathing and grooming herself. She states her cooking is limited to microwavable meals and that she can perform light cleaning. Claimant stated she does laundry but cannot carry baskets. Claimant testified that she uses a scooter when she shops and does not drive due to her vision impairments.

Claimant testified that she had lower back pain and headaches. Both impairments were sporadically referenced in medical documents but there was little medical support that either affected Claimant's ability to basic work activities. Claimant's complaint of headaches related to her vision will be considered in conjunction with her vision.

Based on the presented evidence, there is some basis to find that Claimant has significant impairment to basic work activities based on her knees. Claimant testified to standing, walking and lifting restrictions though there is no medical verification of such restrictions. It is known that Claimant went to the ER three times within eight days in 3/2011 due to knee pain, though there is little medical evidence other than confirmation that Claimant has knee pain. There is no apparent diagnosis for the pain. Claimant's morbid obesity would appear to be a contributor to the pain, though the obesity is merely referenced in various documents. Based on the evidence and applying a de minimus standard, there is a basis to find that Claimant is significantly impaired from performing physically based basic work activities due to knee pain.

Claimant's vision problems are also problematic. Claimant testified that she is considered legally blind in the right eye. A best correction testing of "hand motion" tends to support Claimant's testimony. Claimant testified that her left eye acuity is worsening. Claimant's best corrected vision in her left eye appeared to improve from 2009 (20/40) to 2011 (20/25). However, the eye exam report also noted that Claimant suffered from myopic degeneration in each of her eyes; a diagnosis of Claimant's left eye which happens to be the diagnosis for Claimant's legally blind right eye tends to support the claim that Claimant's vision is worsening. Claimant's testimony that she suffers headaches when attempting to use a computer for more than 15 minutes was persuasive evidence of an severe impairment; though Claimant's testimony seemed credible, it was not verified by a medical provider. Based on the evidence, it is found that Claimant has a severe impairment based on her vision.

Claimant also reported problems with depression and/or bipolar disorder. Claimant was diagnosed with each by a treating physician. It is known that Claimant was found "markedly limited" in all 20 abilities listed on the MRFCA. To be markedly limited in all areas would be typically representative of an exceptionally low functioning individual. Claimant's testimony was not representative of such an individual. Claimant was responsive and informative to all questions. Claimant made subtle corrections in questions that were posed to her such as when she was asked to provide the name of the agency that owned her residence; Claimant clarified that she was participating with an agency that was paying her rent but the agency did not own the residence. Further, on 5/18/11, Claimant was given a GAF of 50. Though the GAF of 50 is representative of a person with psychological barriers, a GAF of 50 does not tend to be reflective of a person markedly limited in every listed work activity from the MRFCA.

Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*. Though there are some concerns about the accuracy of the MRFCA, it will be given some weight in evaluating Claimant's psychological impairments; however, the evidence tended to support that Claimant could not possibly be markedly limited in every work ability from the MRFCA. Based on the presented evidence, it is found that Claimant has significant impairment to performing basic work activities due to psychological conditions.

Claimant's psoriasis was claimed as an impairment but there was little evidence that it affected her ability to perform basic work activities. The testifying DHS specialist testified that she could see the psoriasis on Claimant's skin; the specialist thought the condition looked relatively serious. Nevertheless, the condition should not affect Claimant's basic work activity performance.

Claimant's right knee pain, vision loss and psychological impairments have each either lasted for 12 months or are likely to continue for a period of 12 months. It is found that Claimant established each of these impairments as severe. Accordingly, the disability analysis proceeds 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 any of Claimant's impairments meet the requirements for the respective listing, then the claimant is deemed disabled. If the claimant does not meet the respective listing or the impairment is unlisted, then the analysis proceeds to the next step.

Claimant established a severe impairment for loss of visual acuity. The applicable listing reads

2.02 Loss of Visual Acuity. Remaining vision in the better eye after best correction is 20/200 or less.

It is known that Claimant's left eye is Claimant's better eye. It is known that Claimant's best corrected left eye vision is 20/40+ at far distance (20/20 near distance) after best correction according to the most recently dated eye exam report. Accordingly, Claimant failed to establish meeting the SSA listing for loss of visual acuity.

The applicable SSA listing for joint dysfunction (Listing 1.02) was considered. Claimant failed to establish that she was unable to ambulate effectively. Though Claimant alleged walking restrictions, her testimony was not substantiated by a physician. Claimant testified she sometimes used a cane but does not always use it. There was insufficient medical evidence to support that Claimant's knee dysfunction meets the requirements for the applicable SSA listing.

Claimant also established a severe impairment for bipolar disorder and/or depression. Both are covered by the SSA listing (12.04) for affective disorders. This listing was rejected because Claimant failed to establish that she is markedly limited in her daily activities, markedly limited in social functioning or suffering from repeated episodes of decompensation. Claimant alleged some inabilities to perform various daily activities, each due to physical problems but none were severe enough to be considered marked limitations to the total performance of daily activities. Though the MRFCA noted marked limitations to social functioning, there was a lack of evidence to support the conclusions. Claimant also alleged no episodes of decompensation (e.g. panic attacks, hospitalizations).

Claimant failed to establish meeting a listed SSA 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.

A detailed work history (Exhibits 93-107) for Claimant was provided. Claimant stated that her last two jobs, chore provider and customer service, each were part-time and did not amount to SGA. Thus, neither will be considered in the fourth step analysis.

From 2002-2006, Claimant worked as a dispatcher for two different trucking companies. From 1994-2002, Claimant worked in data entry for a publishing company. Claimant testified that both jobs required extensive data entry which she is unable to perform now due to her vision problems. Claimant's testimony concerning headaches was credible despite the absence of medical document verification. There are assistive devices which may allow Claimant to perform data entry work without headaches but this is pure speculation. Based on the submitted evidence, Claimant's current vision loss appears severe enough that she would be unable to perform any computer work. It is found that Claimant is unable to perform past relevant employment and the disability analysis shall proceed to step five.

In the fifth 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 fifth step analysis will begin by considering Claimant's exertional limitations. Claimant testified that her knee pain limits her standing and walking. Again, there was a general lack of medical verification concerning how Claimant is restricted in standing, walking or lifting. Based on the presented evidence, it appears reasonable that Claimant is capable of performing sedentary work. Claimant conceded that she is capable of lifting 10 pounds and not incapable of short walking distances. It is also reasonable to

conclude that Claimant's obesity and knee pain would prevent her from performing the standing and lifting activities required for light work. It is found that Claimant is limited to sedentary work based on exertional impairments.

Claimant's non-exertional impairments must be considered as to whether they affect Claimant's ability to perform sedentary work. Claimant's psychological impairments were debatably severe, at least to the extent listed on the MRFCA, however, Claimant's vision impairments were not questionable. Claimant's deteriorating vision would most certainly impact many sedentary types of employment which would require some computer usage. Further, Claimant's psychological impairments are problematic, just perhaps not to the extent as noted on the MRFCA. Based on the totality of evidence, it is found that Claimant is impaired to a work level below sedentary employment.

As it is found that Claimant is capable of performing less than sedentary employment, it is reasonable to conclude that Claimant is not capable of performing any SGA based on her impairments. Accordingly, it is found that Claimant is disabled and that DHS erred in finding that Claimant was not disabled.

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 a finding that Claimant is not capable of performing SGA. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS improperly denied Claimant's application for SDA benefits.

DECISION AND ORDER

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

- (1) reinstate Claimant's MA and SDA benefit application dated 5/16/11;
- (2) upon reinstatement, evaluate Claimant's eligibility for MA and SDA benefits on the basis that Claimant is a disabled individual;
- (3) supplement Claimant for any benefits not received as a result of the improper denial; and
- (4) if Claimant is found eligible for future MA and/or SDA benefits, to schedule a review of benefits in one year from the date of this administrative decision.

The actions taken by DHS are REVERSED.



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

Date Signed: January 24, 2012

Date Mailed: January 24, 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:

20122432/CG

- 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:

