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

IN THE MATTER OF:

[redacted]

Reg. No: 2012-2812
Issue No: 2009; 4031
Case No: [redacted]
Hearing Date: January 5, 2012
County: St. Clair

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 dated September 29, 2011. After due notice, a telephone hearing was held on January 5, 2012 from Lansing, Michigan. The claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [redacted] (Eligibility Specialist) and [redacted] (Family Independence Manager).

ISSUE

Did the Department of Human Services (the Department) properly deny the 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 August 4, 2011, the claimant filed an application for Medical Assistance (MA), retro MA and State Disability Assistance (SDA) benefits alleging disability.

2. On or about August 12, 2011, the Medical Review Team (MRT) denied the claimant's application and indicated that he was not disabled.

3. On August 30, 2011, the Department caseworker sent the claimant notice that his application was denied.

4. On September 29, the claimant filed a request for a hearing to contest the Department's action.

5. On November 30, 2011, the State Hearing Review Team (SHRT) denied the claimant's application stating that his impairments do not meet/equal

the intent or severity of a Social Security listing. In addition, the SHRT also found that the medical record indicated that the claimant retains the capacity to perform a wide range of light work.

6. A telephone hearing was held on January 5, 2012. The Administrative Law Judge held the record open to allow for the claimant's laboratory reports and biopsy results. The claimant consented and agreed to extending the record for 90 (ninety) days.

7. On January 11, 2012, the Administrative Law Judge issued an Interim Order Leaving Record Open until April 4, 2012.

8. During the subsequent 90 day period, the claimant sent several medical records all of which were forwarded to SHRT.[1]

9. On March 14, 2012, the SHRT again denied the claimant's application. In this decision, the SHRT noted that the claimant had limited range of motion in his right knee and high blood pressure with no organ damage. The claimant also had left testicular pain which was not disabling.

10. Following the receipt of additional medical records, the SHRT issued another denial on May 8, 2012. The SHRT reviewed additional records concerning the claimant's blood pressure which has been fairly controlled. The records showed no evidence of congestive heart failure on examination. The SHRT then noted, "He had rare ventricular and supraventricular ectopic events."

11. In the instant matter, the claimant alleges disabling impairments due to right knee pain, hypertension, and arthritis.

12. At the time of the hearing, the claimant was 49 (forty-nine) years old with a birth date of [redacted]. He stood 6'4"; and weighed 210 (two hundred and ten) pounds.

13. The claimant finished the 9th grade and he did not earn any degrees, diplomas or certificates. He has an employment history as service station manager and also worked as a mechanic.

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

[1] On April 5, 2012, the claimant submitted the following documents after the April 4, 2012 90 day record extension deadline: a letter from Mr. Sebra to ALJ dated 4/5/12, St. Joseph Mercy Port Huron Medical Bills dated 3/31/12, Echocardiogram report 4/2/12, Records from Port Huron Heart Center including History & Physical Report dated 3/15/12 and a DHS-49 dated 11/8/11.

the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA 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

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only the claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

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). Statements about pain or other symptoms do not alone establish disability. Similarly, conclusory statements by a

physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927. 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).

The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered.

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).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 or 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 or she is not disabled regardless of how severe his or her physical or mental impairments

are and regardless of his or 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" (20 CFR 404.1520(c) and 416.920(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). If the claimant does not have a severe medically determinable impairment or combination of impairments, he or she is not disabled.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C). First, an individual's pertinent symptoms, signs and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitations are assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively and on a sustained basis. 20 CFR 416.920(a)(2). Chronic mental disorders, structured settings, medication and other treatment, and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining and individual's degree of functional limitation. 20 CFR 416.920a(c)(4).

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen,* 880 F2d 860, 862 (CA 6, 1988). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services,* 774 F2d 685, 692 (CA 6, 1985).
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).

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 or 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 (fifteen) years or 15 (fifteen) 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 or 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 or her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he or she is not disabled.

If the claimant is not able to do other work and meets the duration requirements, he or she is disabled.

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. The terms are defined as follows:

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).
The analysis begins at Step 1. Here, Claimant is not engaged in substantial gainful activity and has not worked since 2009. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, Claimant's symptoms are evaluated to see there is an underlying medically determinable physical or mental impairment that could reasonably be expected to produce the claimant's pain or other symptoms. This must be shown by medically acceptable clinical and laboratory diagnostic techniques. Once an underlying physical or mental impairment has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of the claimant's symptoms to determine the extent to which they limit the 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.

In the present case, the claimant, on the Medical-Social Questionnaire (DHS-49-F), indicated that he is disabled due to "severe pain & discomfort in right knee-moderate

pain left knee." The claimant also alleges disability due to hypertension and arthritis. The medical evidence in this record indicates the following.

On October 27, 2000, the claimant, who was age 38 at the time, visited an orthopedic surgeon for right knee pain after falling on his boat and twisting his knee on August 1, 2000. He complained that his knee would lock at least twice per day. The orthopedic surgeon aspirated the claimant's right knee and removed some serous fluid and then ordered an MRI. The claimant's November 10, 2000 MRI of his right knee showed evidence of a posterior horn medial meniscal tear and a questionable lateral meniscal injury. The MRI also noted a medial collateral ligament tear. The orthopedic surgeon scheduled an arthroscopic medial and lateral meniscectomy on the right.

On November 21, 2000, the claimant had surgery on both knees. He had a right knee arthroscopic medial and lateral meniscectomy and an excision of a prepatella bursa on the left knee.

On November 29, 2000, the claimant went in for a post-surgery recheck and was found to have been doing well. The medical records indicated he had actually returned to work since the surgery. He also had improved range of motion.

The claimant visited an orthopedic doctor on August 24, 2010 for a right knee evaluation. During this visit, the claimant reported that he had been experiencing pain on the lateral side of his right knee. X-rays of the claimant's right knee were taken. The x-rays revealed that the claimant had post traumatic arthritis of the right knee and a torn lateral meniscus of the right knee.

On October 12, 2010, the claimant visited the orthopedic physician to review the MRI of his right knee. The MRI revealed a "torn lateral meniscus with parameniscal cyst, torn medical meniscus, mild degenerative changes, small knee effusion." The physician told the claimant that his torn meniscus would not heal on its own and that surgery was required.

On November 3, 2010, the claimant had right knee arthroscopy with partial medical and lateral meniscectomy, chondroplasty of the medial femoral, lateral femoral and patellofemoral compartments and two compartment partial synovectomy.

The claimant visited his orthopedic physician on November 15, 2010. The claimant reported that during physical therapy his knee would hurt after riding the bike for 10 minutes. He would have difficulty walking after riding the bike. The doctor explained the healing process to the claimant and the nature of knee arthritis. He was encouraged to continue with therapy and told he could back off the bike until his symptoms improve.

On December 13, 2010, the claimant went to his orthopedic physician for a recheck. He stated he had continued knee pain. He experiences a knocking sensation when he walks. The therapist discharged him after seven visits. The physician told the claimant that he was experiencing the normal healing process following surgery. He was recommended further rehab of his knee.

On January 10, 2011, the claimant visited his orthopedic physician for a recheck post surgery. Since the surgery, the claimant said he still has some locking and snapping of the right knee. He has increased pain after sitting for any length of time. He needs a pillow between his legs when sleeping, but has not noticed any swelling. He was talking Ibuprofen and has been in therapy. The physician injected some cortisone into his right knee.

On February 7, 2011, the claimant visited his orthopedic physician for a right knee recheck. He wore a knee brace and complained of his knee popping and locking after sitting for long periods of time. The physician advised the claimant to continue with cortisone injections and that he is "okay to go about normal activities as tolerated."

On May 6, 2011, the claimant presented to his orthopedic physician for recurrent right knee pain. The cortisone injection helped relieve some of his pain. The claimant was told he could have periodic cortisone injections every three to four months if it continues to provide relief. The physician told the claimant to return on an as-needed basis.

The claimant's Medical Examination Report (DHS-49) was signed by his orthopedic physician on August 22, 2011. The DHS-49 report indicated that the claimant had right knee osteoarthritis with range of motion 0 to 120 degrees with no instability, mild effusion. The clinical impression indicated "improving."

On August 30, 2011, the claimant visited his orthopedic physician for a recheck of his knee. The physician determined that the claimant had right knee arthritis and cautioned against another cortisone injection. The physician found that eventually the claimant would need a knee replacement. No work restrictions were given.

The claimant's blood lab work results from October 5, 2011 revealed that he had a mildly elevated cholesterol/HDL ratio points which correlated to a slightly increased risk of coronary artery disease.

During the hearing, the claimant testified that he also had testicular pain which may be related to his joint problems. In this regard, the claimant suggested that his testicular pain may be related to possible cancer. None of the medical evidence demonstrates that the claimant has been diagnosed with any form of cancer. The records do show that on December 7, 2011, the claimant had a scrotal ultrasound for complains of testicular pain. The report indicated "large epididymal cysts superior to the left testicle" and "normal bilateral testicles."

On March 12, 2012, the claimant had a holter monitor study due to heart palpitations. The report indicated the claimant had "rare ventricular ectopic events" and "rare supraventricular ectopic events" but "no evidence of sinus pause or sinus arrest."

The claimant's blood lab work results from January 3, 2012 were within normal limits. The claimant visited an urologist on January 24, 2012 for complaints of a lump in his scrotum. The claimant was diagnosed with a left spermatocele.

The medical records contained several medical bills and receipts none of which are relevant for purposes of the instant disability determination.

Claimant has presented medical evidence that demonstrates he has some limitations on his ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination of impairments, that has more than a *de minimus* effect on his basic work activities. Further, the impairments have lasted continuously for 12 (twelve) months; therefore, Claimant is not disqualified from receiving MA-P benefits at Step 2.

Because Claimant is not denied at Step 2, the analysis would precede to Step 3 The analysis proceeds to Step 3 where the medical evidence of Claimant's condition is compared to the listings. In light of the medical evidence, the following listings are considered.

14.09 Inflammatory arthritis. As described in 14.00D6. With:

A. Persistent inflammation or persistent deformity of:

1. One or more major peripheral weight-bearing joints resulting in **the inability to ambulate effectively** (as defined in 14.00C6); or Listing 1.00B(2)(b). What we mean by inability to **ambulate effectively**.

   (1) Definition. Inability to ambulate effectively means an **extreme** limitation of the ability to walk; i.e., an impairment(s) that interferes **very seriously** with the individual's ability to independently initiate, sustain, or complete activities. Ineffective ambulation is defined generally as having insufficient lower extremity functioning (see 1.00J) to permit independent ambulation without the use of a hand-held assistive device(s) that limits the functioning of both upper extremities. (Listing 1.05C is an exception to this general definition because the individual has the use of only one upper extremity due to amputation of a hand.)

   (2) To ambulate effectively, individuals must be capable of sustaining a reasonable walking pace over a sufficient distance to be able to carry out activities of daily living. They must have the ability to travel without companion assistance to and from a place of employment or school. Therefore, examples of ineffective ambulation include, but are not limited to, the inability to walk without the use of a walker, two crutches or two canes, the inability to walk a block at a reasonable pace on rough or uneven surfaces, the inability to use standard public transportation, the inability to carry out routine ambulatory activities, such as shopping and banking, and the inability to climb a few steps at a reasonable pace with the use of a single hand rail. The ability to walk independently about one's home without the use of assistive devices does not, in and of itself, constitute effective ambulation.

   Or

B. Inflammation or deformity in one or more major peripheral joints with:

1. Involvement of two or more organs/body systems with one of the organs/body systems involved at least to a moderate level of severity; and

2. At least two of the constitutional symptoms or signs (severe fatigue, fever, malaise, or involuntary weight loss).

There was no objective medical evidence in this record to meet any of the other listings.

The second step of the analysis looks at a two-fold assessment of duration and severity. 20 CFR 416.920(c). To meet the durational requirements for the MA program, the claimant's condition must last or be expected to last for a continuous period of 12 months (20 CFR 416.909.) The medical records establish that the claimant's condition has improved post-operatively. He does have some residual pain following surgery. However, the law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered. Therefore, this Administrative Law Judge is unable to find the claimant has met the 12 month durational requirement for MA. No further analysis is required.

Ultimately, it is found that the claimant's impairments do not meet the intent and severity requirement of a listed impairment and, therefore, Claimant can not be found disabled at Step 3.
Even if the claimant were to proceed to Step 4 where the Administrative Law Judge determines Claimant's residual functional capacity to perform the requirements of his past relevant work, the claimant would not be found disabled. The evidence in this record reveals that the claimant is able to do physical and mental work activities on a sustained basis despite limitations from his impairments. The claimant's previous employment as a service station/office manager was largely sedentary in nature. Taking into consideration all of the claimant's impairments, including the less severe impairments, the claimant is capable of working as a service station manager. Because the record evidence shows that the claimant has the residual functional capacity to do his past relevant work, the claimant is not disabled. Even if the claimant is unable to do any past relevant work, he still would not be found disabled at the fifth and last step.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not the claimant has the residual functional capacity to perform some other jobs. At Step 5, this Administrative Law Judge must determine whether or not the claimant has the residual functional capacity to perform some other jobs in the national economy. Here, the claimant can perform a wide range of jobs that are light and/or sedentary in nature. This Administrative Law Judge finds that the objective medical evidence on the record fails to show that the claimant has no residual functional capacity. Consequently, the claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he cannot perform light or sedentary work even with his impairments.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969. Under the Medical-Vocational guidelines, a younger individual (age 49), with a 9th grade

education with literacy skills and a skilled/semi-skilled work history who is capable of light work is not considered disabled pursuant to Vocational Rule 202.18.
The claimant has not satisfied the burden of proof to show by competent, material and substantial evidence that he 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 the claimant has cited medical problems, the objective clinical documentation submitted by the claimant is not sufficient to establish a finding that he is disabled. There is no objective medical evidence to substantiate the claimant's assertion that his alleged impairments are severe enough to reach the criteria and definition of disability. The claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

With regard to the claimant's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA program. In order to receive SDA, "a person must be disabled, caring for a disabled person or age 65 or older." BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not show that the claimant is unable to work for a period exceeding 90 (ninety) days, the claimant is also not disabled for purposes of the SDA program.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that the claimant was not eligible to receive Medical Assistance, Retro Medical Assistance and/or 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 acted in compliance with Department policy when it denied the claimant's application for Medical Assistance, Retroactive Medical Assistance and State Disability Assistance. The claimant should be able to perform a wide range of light or sedentary work even with his impairments. The Department has established its case by a preponderance of the evidence.

Accordingly, the Department's decision is AFFIRMED.

IT IS SO ORDERED.

/s/_____
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/18/12

Date Mailed: 6/18/12

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.

CAP/ds