

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

IN THE MATTER OF:



Reg. No.: 2012-44709
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: June 14, 2012
County: Delta County

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon the Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was commenced on June 14, 2012, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Eligibility Specialist [REDACTED] [REDACTED]

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team (SHRT) for consideration. On August 30, 2012, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

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

FINDINGS OF FACT

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

- (1) On August 24, 2011, Claimant applied for MA-P, Retro-MA and SDA benefits.
- (2) On March 25, 2012, the Medical Review Team (MRT) denied Claimant's MA application indicating Claimant is capable of performing other work,

pursuant to 20 CFR 416.920(f). MRT denied Claimant's SDA application due to lack of duration. (Department Exhibit A, pages 1-2).

- (3) On March 30, 2012, the department caseworker sent Claimant notice that his application was denied.
- (4) On April 9, 2012, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On May 18, 2012, the State Hearing Review Team (SHRT) upheld the denial of MA-P and Retro-MA benefits indicating Claimant retains the capacity to perform a wide range of simple, unskilled, light work. SDA was denied due to lack of duration. (Department Exhibit B, pp 1-2).
- (6) Claimant has a history of degenerative disc disease, Aspergers, depression, anxiety and obsessive-compulsive disorder.
- (7) Claimant is a 46 year old man whose birthday is [REDACTED] Claimant is 5'11" tall and weighs 184 lbs. Claimant completed high school and last worked in November, 2009.
- (8) Claimant was appealing the denial of Social Security disability at the time of the hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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 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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18

years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). 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 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). 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.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

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 an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity and testified that he has not worked since November, 2009. Therefore, he is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

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). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). 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 the present case, Claimant alleges disability due to degenerative disc disease, Asperger's syndrome, depression, anxiety and obsessive-compulsive disorder.

On April 30, 2010, Claimant underwent a Diagnostic Cervical Myelogram which revealed no evidence of spinal stenosis. There was loss of normal cervical lordosis epicentered above the surgical site. Plate and screw transfixion at C5-C6 was noted from an anterior approach with the hardware intact. Alignment at those two levels was seen to be essentially anatomic. There was disc space narrowing of mild degree at C3-C4 and C4-C5 with small anterior extradural defects at C3-C4 secondary to discogenic osteophytic complex.

On December 17, 2010, Claimant underwent a series of x-rays. X-rays of his Thoracic spine showed slight kyphosis with mild arthritic changes. His Lumbar spine x-rays revealed mild arthritic changes with disc space narrowing at L4-L5 and L5-S1 and incomplete sacralization of L5 on the left. X-rays of his Pelvis also showed incomplete sacralization of L5 on the left. His bilateral hand x-rays revealed mild arthritic changes at the 1st metacarpal-carpal joint space and sclerosis at the articular surface of the radius with some joint space narrowing at the radial carpal joint. There was also a small bony density at the ulnar styloid which may represent an old bony fragment. His left hand showed mild arthritic changes in the 1st metacarpal-carpal joint space and a small cystic area measuring approximately 5 mm at the mid-portion of the middle phalanx of the middle finger. X-rays of his feet and sacroiliac joints were negative. His left shoulder x-ray revealed prominent osteophyte formation inferior aspect of the distal left clavicle. X-rays of his right shoulder showed no evidence of any fractures or abnormalities. X-rays of his right knee revealed mild arthritic changes and his left knee was negative for abnormalities.

On December 28, 2010, Claimant's MRI Cervical-Spine with and without contrast revealed moderate disc degeneration with some mild cord compression mostly at the 3-4 level with some right sided foraminal narrowing.

On January 24, 2011, Claimant's MRI Lumbar-Spine without contrast showed some degenerative findings at the L2-L3, L3-L4, L4-L4 and L5-S1 levels with some mild spinal stenosis at the L2-L3 level and a small right paracentral disc protrusion near the right L4 nerve root.

On March 28, 2011, Claimant underwent a psychiatric evaluation on behalf of the department. He was neatly dressed, very friendly and cooperative. He was happy and joked about a number of things during the evaluation. There were no signs of depression or psychomotor retardation. He reported his sleep and appetite were good, and he used medical marijuana. There was no looseness to his associations and no pressured speech. He had some mild anxiety, but his sensorium was clear. His recent and remote memory was intact and his insight and judgment were fair. The psychiatrist opined that if Claimant were to get Social Security Disability, most of his problems would go away in terms of his complaints of depression and anxiety and there was no need for a follow-up appointment. Diagnosis: Axis I: Depressive disorder; Anxiety disorder; Axis V: GAF=60.

On July 13, 2011, Claimant went to the emergency department demanding a psychological examination because he was upset that no one would prescribe Xanax to him. He stated that he had never had an official psychological examination and felt he was borderline bipolar. Claimant stated he took his last Xanax that morning and his doctor would not refill them for him because they did not feel comfortable doing so. The examining physician found that Claimant's doctors had been trying to wean him off Xanax and switch him to Ativan or Klonopin. The examining physician informed Claimant that he would not prescribe him any Xanax and at the most would prescribe him a few tablets of Ativan. Claimant agreed and he was encouraged to keep his follow-up appointments.

On July 27, 2011, Claimant underwent a clinical assessment at behavioral health services. Claimant appeared to have significant problems with chronic pain and anxiety as well as depression which had led to some excessive use of his pain medications, especially Vicodin. He admitted his depression seemed to be getting better in the last week since he was no longer on the Vicodin, but on Tramadol. The examining psychologist opined that it remained to be seen if Claimant could control his use of the non-opiate pain reliever. Claimant also had a clear problem with marijuana dependence in the past, although much less so in recent months. He appeared to have fairly serious health issues which contributed to his disability. It was noteworthy that Claimant had also been sentenced on a burglary for breaking in and stealing a woman's underwear. He clearly had mental health issues in addition to chemical dependency and his prognosis was guarded. Diagnosis: Axis I: Opiate Dependence; Marijuana Dependence; Generalized Anxiety Disorder; Mood Disorder of questionable etiology; Fetishism; Axis II: Obsessive/Compulsive Disorder and Paranoid/Borderline Traits; Axis III: Degenerative disc disease; arthritis; diabetes; hypertension; Axis V: GAF=50.

On August 19, 2011, Claimant had a follow-up appointment with his neurologist. Claimant was pleasant and happy and on the whole, appeared improved. Claimant stated he was completely off the Vicodin, however, he wanted an increase in his Ultram. The Ultram was prescribed for Claimant's shoulder, neck and low back pain. His headaches were relatively controlled at the time of the visit. On examination, his neck movements were full and supple. He had multiple tender points in the trapezius muscle on the sites of the cervical area and also in the shoulder area bilaterally. His neurological examination was otherwise non-focal and within normal limits. Review of systems failed to show any other changes. Claimant was mainly interested in

increasing his Ultram dosage to 3 times a day. Claimant's neurologist explained that he would not give Claimant higher doses of Ultram and that the 50 tablets of 50 mg per month were sufficient. The examining neurologist did offer to give Claimant 6 trigger point injections of Kenalog mixed with Marcaine. Claimant tolerated the procedure well.

On August 23, 2011, Claimant met with his psychiatrist. Claimant's affect was constricted. His overall mood was good. His speech was overinclusive but baseline. He stated that the Klonopin was definitely helpful. He wanted to stop taking the Risperdal because of the side effects. Against medical advice, Claimant stopped using the Risperdal. He admitted to taking a Percocet of his father's last week when he was in pain. He was using medical marijuana and found it to be helpful. His psychiatrist also met with Claimant's mother who stated that Claimant was definitely doing better. The examining psychiatrist opined that given Claimant's high anxiety, the pervasive development disorder symptoms and medical issues he struggled with, Claimant would struggle with any type of meaningful employment and he would support disability for him. Utilizing the DSM-IV criteria, his psychiatrist was unable to give Claimant an Asperger's diagnosis without knowing his exact childhood history.

On September 30, 2011, Claimant went to the emergency department complaining of chronic neck pain. Symptoms were worsened by twisting and bending and relieved by narcotics. His mood, affect, behavior, judgment and thought content were normal. Claimant's previous primary care physician was contacted and he stated that Claimant had been discharged earlier that week from the practice due to obtaining Tramadol from multiple current providers. Claimant was informed that he needed to establish a new local provider and the emergency department would not be renewing his prescriptions.

On December 3, 2011, Claimant went to the emergency department complaining of chronic right neck/shoulder pain. Claimant was well known to the emergency department, with frequent similar presentations and willing to return home after a Toradol injection. He exhibited tenderness and pain in his right shoulder, but had no swelling and normal strength. His speech, behavior, judgment, thought content, cognition and memory were normal. He appeared anxious. He was requesting Toradol and Prednisone prescriptions.

On February 3, 2012, Claimant underwent a psychological evaluation. He was twenty minutes late and was pressured, yelling at the psychologist as to having difficulty getting there on time, but offered no excuse other than he could not make it. He was in contact with reality. His self-esteem was low. His motor activity was heightened. He expressed a dislike for the dependence he had on his parents. He had limited to poor insight. He was spontaneous, pressured and at times vague, evasive and unorganized. He was a very poor historian and reporter of chronology which appeared to relate to his reserve and evasiveness. He was pressured, anxious and emotionally resistant to the interview process. He was of average intelligence with multiple medical complaints revolving around chronic pain and affective disturbances including disrupted sleep, depression and variable to poor motivation. He alluded to multiple traumatic childhood experiences and was evasive and minimizing of his legal problems revolving around sexual offenses in which he was on a sexual offender list. He tended to displace blame to others. He described himself as falling apart since losing his job. He was in limited psychiatric

counseling, stating he no longer participated in any support groups. The examining psychologist opined that Claimant was able to process and act on directives given successful management, control and treatment of his Axis I disorders and within the restrictions of his medical condition. Diagnosis: Axis I: Paraphilia; Anxiety disorder; History of cannabis abuse; Axis II: Personality disorder; Axis V: GAF=42.

On February 16, 2012, Claimant saw the pain clinic for an evaluation of both shoulders. No x-rays were taken. In December, 2010, he had x-rays which showed just a little spur on the AC joint on the left at 08. He had an MRI of the left shoulder which showed the rotator cuff to be intact. He had full active range of motion. He had good abduction strength against resistance. Good external rotation strength against resistance. Good push off strength against resistance. He was assessed with bilateral impingement syndrome of shoulders and rotator cuff tendinitis. Claimant was injected with Depo-Medrol mixed with 3 ml of Lidocaine in each shoulder.

On May 29, 2012, Claimant went to the emergency department requesting a shot of Toradol because he had walked all over the parade the day before and was all cramped up. Claimant was alert and oriented, complaining of pain in his back and shoulder.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented some limited medical evidence establishing that he does have some physical limitations on his ability to perform basic work activities based on his discogenic disorders of the back and neck, status post C5-C6 discectomy and fusion surgery. The medical evidence has established that Claimant has a severe physical impairment, or combination thereof, that has more than a *de minimis* effect on Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months. Claimant's medically determinable mental impairments of depression, anxiety and obsessive-compulsive disorder and history of marijuana abuse, singly and in combination, do not cause more than minimal limitation in Claimant's ability to perform basic mental work activities and are therefore non-severe. Therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged physical and mental disabling impairments due to degenerative disc disease, Asperger's syndrome, depression, anxiety and obsessive-compulsive disorder.

Listing 1.00 (musculoskeletal system) and Listing 12.00 (mental disorders) were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled, or not disabled, at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work.

Id.; 20 CFR 416.960(b)(3). 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 are 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.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. 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 additional 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 (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiety, 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 (e.g., 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.*

Claimant's prior work history consists of work as a truck driver. In light of Claimant's testimony, and in consideration of the Occupational Code, Claimant's prior work is classified as semi-skilled, medium work.

Claimant testified that he is able to walk short distances and can lift/carry approximately 2 pounds and can stand for 5 minutes and sit for an hour at a time. If the impairment or combination of impairments does not limit an individual's physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of Claimant's testimony, medical records, and current limitations, it is found that Claimant is unable to return to past relevant work.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, the Claimant was 46 years old and was, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school education. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). 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). The age for younger individuals (under 50) generally will not seriously affect the ability to adjust to other work. 20 CFR 416.963(c). Where an individual has an impairment or combination of impairments that results in both strength limitations and non-exertional limitations, the rules in Subpart P are considered in determining whether a finding of disabled may be possible based on the strength limitations alone, and if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience, provide the framework for consideration of how much an individual's work capability is further diminished in terms of any type of jobs that would contradict the non-limitations. Full consideration must be given to all relevant facts of a case in accordance with the definitions of each factor to provide adjudicative weight for each factor.

In this case, the evidence reveals that Claimant suffers from degenerative disc disease, Aspergers, depression, anxiety and obsessive-compulsive disorder. The objective medical evidence lists no limitations. In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis which includes the ability to meet the physical and mental demands required to perform at least light work as defined in 20 CFR 416.967(b). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix I] as a guide, specifically Rule 202.21, it is found that Claimant is not disabled for purposes of the MA-P program at Step 5.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P, Retro-MA and SDA benefit programs. Accordingly, it is ORDERED:

The Department's determination is **AFFIRMED**.

/s/

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

Date Signed: September 21, 2012

Date Mailed: September 21, 2012

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

VLA/las

cc:

A large black rectangular redaction box covering several lines of text in the distribution list.