

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201251676
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: July 25, 2012
County: Wayne DHS (19)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 25, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

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 1/17/12, Claimant applied for SDA and MA benefits including a request for retroactive MA benefits from 10/2011.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 3/30/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).
4. On 4/23/12, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 4/16/12, Claimant requested a hearing disputing the denial of MA and SDA benefits.
6. On 6/30/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 113-114), in part, by finding that Claimant retained the capacity to perform past relevant work.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 5'6 ½ " and weight of 225 pounds.
8. As of the date of the administrative hearing, Claimant has no known relevant history of substance abuse.
9. Claimant's highest education year completed was the 12th grade.
10. As of the date of the administrative hearing, Claimant had no ongoing health coverage and last had medical coverage in 12/2011.
11. Claimant alleged that he is disabled based on impairments and issues including: bad knees, bad foot, Tourette Syndrome, kidney problems, high blood pressure and attention deficit hyperactive disorder (ADHD).

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).

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 2011 monthly income limit considered SGA for non-blind individuals is \$1,000.

In the present case, Claimant denied having any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the submitted medical documentation. Some documents were admitted as exhibits but were not necessarily relevant to the disability analysis; thus, there may be gaps in exhibits numbers.

A Social Summary (Exhibits 6-7) dated [REDACTED] was presented. A Social Summary is a standard DHS form which notes alleged impairments and various other items of information; the Social Summary was completed by a DHS specialist. It was noted that Claimant alleged disability based on physical and psychological problems.

A physician letter (Exhibit 50) dated [REDACTED] was presented. It was noted that Claimant had HTN and kidney insufficiency. It was noted that Claimant's kidneys' glomerular filtration rate functioned at 55% of the rate of normal kidneys.

Medical records (Exhibits 36-45) noting a [REDACTED] admission date were presented. It was noted that Claimant presented with acute onset of abdominal pain. It was noted that food poisoning was the likely cause.

Acute Office Visit documents (Exhibits 31-33) dated [REDACTED] from Claimant's PCP were presented. It was noted that Claimant complained of vomiting, nausea and abdominal pain. It was noted that Claimant's condition improved. A CT of the abdomen (see Exhibit 34) noted that Claimant was within limits of an excretory phase examination and showed no intra-pelvic abnormality. Views of Claimant's chest (Exhibit 35) were not notable.

Hospital records (Exhibits 13-17) from a [REDACTED] admission were presented. It was noted that Claimant presented with elevated blood pressure (noted as over 200) and a complaint of headache. An impression was given that Claimant had uncontrolled HTN and stage 3 kidney disease. It was noted that Claimant's blood pressure showed improvement, though Claimant complained of a headache.

Additional hospital records (Exhibits 20-30) from 10/2011 were presented. The records noted a 1 [REDACTED] admission. A physical examination from 10/2011 was not notable. It was noted that Claimant's blood pressure was [REDACTED].

A document (Exhibit 12) from Claimant's primary care physician dated 11/9/11 noted Claimant's chronic problems. The following illnesses were included in a list of 16 items: hypertension, hyperlipidemia, Tourette Syndrome, prostatitis, IGM neuropathy, allergic rhinitis, RAD, gastritis, vitamin D deficiency, degenerative joint disease of the knee, panic disorder, cardiomegaly, palpitations and hemorrhoids.

Two letters (Exhibits 47 and 48) were presented. It was noted that Claimant was diagnosed with ADHD and Tourette Syndrome.

A Medical Social Questionnaire (Exhibits 8-10) dated [REDACTED] completed by Claimant was presented. The form allows for reporting of claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. Claimant noted taking several prescriptions including: Hydralazine, Lisinopril, Carvedilol, Amlodipine, Besylate, Concerta and Vicodin.

Various medical records (Exhibits 52-64) concerning Claimant's knee were presented. On [REDACTED] it was noted that Claimant walked with a significant limp and a knee showing effusion and crepitus (see Exhibit 53). A document dated [REDACTED] (Exhibit 54) noted Claimant's knee pain (1-2/10) subsided but recently returned. It was noted that Claimant showed crepitus with motion but was not limping. An MRI was performed and noted as have been reviewed with Claimant. Three x-rays of Claimant's left foot from [REDACTED] (see Exhibit 58) showed degenerative changes and no signs of fracture.

Additional records (Exhibits 75-96), some medical and some not from 2/2011 and prior were presented. It was noted on [REDACTED] that there was moderate to severe cartilage loss from the medial compartment of the knee. An impression of medial meniscus tear and moderate sized joint effusion (among others) were given. The documents were not otherwise notable other than being more out-of-date than other documents and remaining consistent with other documents.

A psychological examination report (Exhibits 71-74) dated [REDACTED] was presented. It was noted that Claimant was diagnosed with Tourette Syndrome as a child. Symptoms included constant eye blinking making funny noises at times and an inability to sit still. It was noted that Claimant had poor impulse control. 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 I diagnoses included Tourette Syndrome and ADHD. Axis IV noted social, family, employment and financial problems. Claimant's GAF was 59. A GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's prognosis was fair to guarded. It was noted that Claimant could manage his own funds.

Claimant completed an Activities of Daily Living (Exhibits 65-67) dated [REDACTED]; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted sleeping difficulties due to bathroom trips. Claimant noted that his medications cause drowsiness. Claimant noted that he does not shop and does not fix meals.

Claimant testified that he was able to bathe and groom himself. Claimant stated that his cousin cooks, cleans, shop for Claimant. Claimant stated that he drives. Claimant noted that he often trips because he limps. Claimant stated that he sometimes uses a cane. Claimant stated that he has an arthritic thumb which affects his grasping ability. Claimant stated that his medication makes him sleepy and causes him to be unable to concentrate.

Claimant testified that knee pain limits him to lifting no more than 10 pounds, standing longer than 20 minutes or walking for more than five minutes. Claimant stated that he is in constant pain. It was verified that Claimant took medication for pain. There were records from 2/2011 and earlier describing various knee problems for Claimant, though little reference was made to Claimant's knee problems after 2/2011; thus, it is difficult to verify how Claimant is currently affected by his knees. There was also no record of an explicit restriction placed on Claimant's ambulation. It would be reasonable to presume that Claimant may have some difficulties with lifting and ambulation because of his past knee problems, but not to the extent testified to by Claimant. Based on the presented evidence, there was insufficient evidence to establish impairment to the performance of basic work activities solely based on Claimant's knee problems.

Looking at Claimant's psychological records, it is known that Claimant has ADHD and Tourette Syndrome. It was established that Claimant takes medication for both. However, there again were no restrictions placed on Claimant because of the diagnoses. Claimant's testimony that the psychological problems affect his ability to concentrate was reasonable. A reduced ability to concentrate is not sufficient to establish a significant impairment to the performance of basic work activities. Based on the presented evidence, there was insufficient evidence to establish impairment to the performance of basic work activities solely based on Claimant's psychological problems.

Claimant's high blood pressure and kidney function were shown to be reoccurring and recent problems for Claimant. It was established that Claimant received multiple treatments for both problems, including a hospitalization from 10/2011. It was established that Claimant's kidney function was 55% of normal functioning. It was established that Claimant had stage 3 kidney disease. Again, there was no explicit physical restriction verified by a physician.

Claimant also noted that side effects from his medications affect his ability to perform basic work activities. Claimant testified that he thought Concerta which was prescribed for Claimant's ADHD is particularly potent. Claimant recalled a time when he fell asleep while sitting up and states that he is sleep deprived, thereby rendering him very unreliable. Concerta is known to cause drowsiness. It would be reasonable to conclude that Claimant's sleep is affected by his medication, but not to the point of finding that disability exists.

It was established that Claimant does not have any single impairment to performing basic work activities. The combination of knee problems, hypertension, kidney problems and medication side effects can be reasonably found to affect Claimant's alertness, judgment, lifting ability and ambulation in combination to meet a de minimus standard that Claimant's ability to perform basic work activities is significantly impaired. It was established that Claimant's knee, psychological and hypertension problems have lasted for 12 months.

As it was found that Claimant established significant impairment to basic work activities for a period longer than 12 months, it is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's most prominent impairment appears to be hypertension. Hypertension is not specifically covered by an SSA listing. Claimant's most notable symptom from the hypertension was his kidney function; kidney function is covered by an SSA listing. The relevant listing states:

6.02 Impairment of renal function, due to any chronic renal disease that has lasted or can be expected to last for a continuous period of at least 12 months.

With:

A. Chronic hemodialysis or peritoneal dialysis (see 6.00E1).

OR

B. Kidney transplantation. Consider under a disability for 12 months following surgery; thereafter, evaluate the residual impairment (see 6.00E2).

OR

C. Persistent elevation of serum creatinine to 4 mg per deciliter (dL)(100 ml) or greater or reduction of creatinine clearance to 20 ml per minute or less, over at least 3 months, with one of the following:

1. Renal osteodystrophy (see 6.00E3) manifested by severe bone pain and appropriate medically acceptable imaging demonstrating abnormalities such as osteitis fibrosa, significant osteoporosis, osteomalacia, or pathologic fractures; or

2. Persistent motor or sensory neuropathy (see 6.00E4); or

3. Persistent fluid overload syndrome with:

a. Diastolic hypertension greater than or equal to diastolic blood pressure of 110 mm Hg; or

b. Persistent signs of vascular congestion despite prescribed therapy (see 6.00B5); or

4. Persistent anorexia with weight loss determined by body mass index (BMI) of less than 18.0, calculated on at least two evaluations at least 30 days apart within a consecutive 6-month period (see 5.00G2).

The medical evidence established only that Claimant has low functioning kidneys justifying a diagnosis of stage 3 kidney disease. The medical evidence failed to establish that any of the listing circumstances apply to Claimant. Accordingly, it is found that Claimant does not meet the listing for impaired renal function.

A listing for personality disorders (Listing 12.08) was considered based on the diagnoses for ADHD and Tourette Syndrome. Claimant alleged that he had difficulties concentrating, but even if it was found that Claimant was markedly restricted in this area, Claimant would also have to establish marked restrictions in social functioning or in completing of daily activities or that he underwent repeated episodes of decompensation; there was no evidence of any of these circumstances.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. Claimant stated that he occasionally uses a cane but the medical evidence failed to establish that Claimant had an inability ambulate effectively.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant's SSA work history (Exhibits 97-112) was presented. Claimant also testified concerning his full-time work history.

Claimant stated that he most recently worked as an underground laborer. Claimant described his job duties as digging by hand, constant standing and stooping and lifting heavy (50-60 pounds) objects such as pipes.

Claimant stated that he also managed a car detail shop. Claimant stated that he had managerial duties, but that he was routinely expected to perform the car detailing himself. Claimant stated that the job required constant bending and standing. Claimant stated that he routinely lifted items up to 20 pounds.

Claimant also stated that he was a line worker. Claimant stated that the job required constant walking and lifting items weighing 50 pounds. Claimant called the work "strenuous".

Claimant testified that he would be unable to perform the lifting and standing required for each of his previous jobs. The medical records did not directly verify such

restrictions, but it could reasonably be presumed that Claimant's knee and hypertension issues would prevent the performance of his past employment. For purposes of this decision, it is found that Claimant could not perform his past relevant employment. Accordingly, the analysis moves to the fifth and final step of the analysis.

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).

For purposes of this decision, only a consideration of Claimant's ability to perform sedentary employment will be considered. Claimant noted that he had an arthritic thumb which affects his grasping ability; Claimant's testimony concerning this issue was wholly unsubstantiated and will therefore not be considered. Claimant conceded that he could lift 10 pounds. There was no indication of any sitting restrictions for Claimant. It is found that Claimant can perform the physical requirements for sedentary employment.

Claimant stated that he could not perform sedentary employment due to his medication side effects. Claimant stated that he took prescriptions for Hydralazine, Lisinopril, Concerta and Effexor. Though it would be reasonable to presume that Claimant may be adversely affected by medication side effects, there is no medical record suggesting that Claimant is so affected that he could not perform employment. Based on the presented evidence, it is found that Claimant can perform a sedentary level of employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school), employment history (semiskilled- not transferrable), Medical-Vocational Rule 201.21 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of MA benefits.

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

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 at 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1.

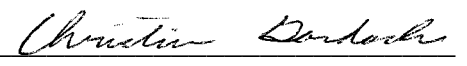
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

It has already been found that Claimant is not disabled for purposes of MA benefits based on application of Medical-Vocational Rule 201.21. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS properly denied Claimant's application for SDA benefits on the basis that Claimant is not a disabled individual.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's SDA and MA benefit application dated 1/17/12, including retroactive MA benefits from 10/2011, based on a determination that Claimant was not disabled. The actions taken by DHS are AFFIRMED.


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

Date Signed: August 1, 2012

Date Mailed: August 1, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of

the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases).

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

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

