



5. On 8/16/12, Claimant requested a hearing disputing the denial of MA benefits (see Exhibit 2).
6. On 10/14/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 75-76) by determining that Claimant was capable of performing past relevant work.
7. On 11/28/12, an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A17) at the administrative hearing, which were forwarded to SHRT along with previously presented documents.
9. On 12/18/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits A18-A19), in part, by application of Medical-Vocational Rule 202.13.
10. As of the date of the administrative hearing, Claimant was a [REDACTED] year old female with a height of 5'4" and weight of 148 pounds.
11. Claimant has no known relevant history of tobacco, alcohol or illegal substance abuse.
12. Claimant obtained a Bachelor of Arts in the subject of psychology.
13. As of the date of the administrative hearing, Claimant had no ongoing medical insurance coverage.
14. Claimant alleged that she is disabled based on impairments and issues including: heart problems, high blood pressure and blocked arteries causing chest pain and fatigue.

### **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 2012 income limit is \$1010/month.

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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> 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 (1<sup>st</sup> 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 (1<sup>st</sup> 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 relevant submitted medical documentation.

A Medical Social Questionnaire (Exhibits 23-27) dated [REDACTED] was presented. The form was completed by a Medicaid Advocate. It was noted that Claimant's artery was 80% blocked and that Claimant should be on bed rest. It was noted that Claimant had an Associate's Degree in Psychology though Claimant testified that she had a Bachelor's of Arts.

Hospital documents (Exhibits 30-35) dated [REDACTED] were presented. It was noted that Claimant presented with complaints of falling over.

Hospital documents (Exhibits 28-29, 64-70 and A11-A17) noting an admission date of [REDACTED] were presented. Additional documents (Exhibits 36-39) verified a discharge date of [REDACTED]. It was noted that Claimant presented with severe chest pain (see Exhibit 38). It was noted that Claimant was initially diagnosed with acute inferior wall myocardial infraction. It was noted that Claimant immediately received a catheterization upon admission. Discharge documents noted that there was 80% stenosis of the proximal portion of the left anterior descending artery. It was noted that Claimant was placed on a 24 hour intra-aortic balloon pump for 24 hours and was hemodynamically stable upon discharge. It was noted that the treating physician had a long discussion with her concerning the need for compliance with her medications. It was noted that Claimant was to be closely monitored.

A medical document (Exhibit 42) dated [REDACTED] noted Claimant had normal ventricular systolic function. It was also noted that Claimant had no obvious wall motion abnormalities, no valvular abnormalities and no pericardial effusion.

A medical document (Exhibits 41 and 46-47; A7-A8) dated [REDACTED] noted Claimant had normal ventricular systolic function. It was also noted that Claimant had no obvious wall motion abnormalities, no valvular abnormalities and no pericardial effusion.

Medical documents (Exhibit 40, 43-45, 48-63, A6 and A9) dated [REDACTED] were presented. It was noted that a resting ECG and two-dimensional echo color flow were performed. It was noted that Claimant exercised for nine minutes and had no chest pain, but had

shortness of breath. It was noted that Claimant's ejection fraction was 55%. An impression was given that the exercise stress echo study was negative for wall motion abnormalities. It was noted that Claimant had normal exercise capacity.

A document (Exhibit A5) from Claimant's treating specialist dated [REDACTED] was presented. It was noted that Claimant has had no episodes of angina pectoris, though she continues to feel tired and fatigued.

A document (Exhibit A2) from Claimant's treating specialist dated [REDACTED] was presented. It was noted that a Carotid Doppler test was performed. An impression of 20-40% stenosis was noted in Claimant's left internal carotid artery and right internal carotid artery.

A New York Heart Association Classification (Exhibit A1) form dated [REDACTED] from Claimant's treating physician was presented. The form lists four different cardiac functional capacities and five different cardiac therapeutic classifications. The treating physician circled a Class II and Class III functional level for Claimant. Class II is indicative of a patient with a slight limitation of physical activity. Class II is further described as one who is comfortable at rest though ordinary physical activity results in fatigue, palpitation, dyspnea or anginal pain. Class III is indicative of a person with marked limitations of physical activity and who are comfortable at rest, though less than ordinary physical activity causes fatigue, palpitation, dyspnea or anginal pain. Claimant's therapeutic level was characterized as Class C, which is indicative of patients with cardiac diseases whose ordinary physical activity should be moderately restricted and more strenuous activity should be discontinued.

Claimant completed an Activities of Daily Living (Exhibits 71-74) dated [REDACTED]. Claimant noted that she had trouble sleeping but did not note why she had trouble. Claimant noted that she was eating more after losing a few pounds. Claimant noted that she does her own housework. Claimant noted that she and her daughter go shopping and that her daughter carries the groceries. Claimant noted that she likes to read, but does not do it for too long because she gets sleepy.

Claimant testified that she is restricted from climbing stairs, though there is no evidence of the restriction. Claimant testified that she bathes and dresses herself. Claimant stated that she drives, but short distances only. Claimant stated that her daughter vacuums and does the laundry for her.

The presented medical evidence exclusively dealt with Claimant's heart. Of the presented documents, the most persuasive was the heart classification form completed by Claimant's specialist. The therapeutic classification verified that Claimant has moderate restrictions in performing activities. This determination is consistent with circling Class II and Class III which would place Claimant somewhere between mild and marked restrictions on physical activities. The medical evidence was supportive of the specialist's determination. Moderate restrictions to performing physical activities would

reasonably meet a de minimus standard in establishing a significant impairment to performing basic work activities.

It is known that Claimant was initially hospitalized for heart problems on [REDACTED]. Claimant's treating specialist determined Claimant's heart had moderate restrictions on [REDACTED]. The seven month lapse of time is a sufficient length to presume that Claimant would be comparably restricted 12 months after her 2/2012 hospitalization.

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 heart-related issues, specifically arterial stenosis. Cardiovascular impairments are covered by Listing 4.00. Arterial stenosis is best covered by Listing 4.04 which reads:

**4.04 Ischemic heart disease**, with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

**A.** Sign- or symptom-limited exercise tolerance test demonstrating at least one of the following manifestations at a workload equivalent to 5 METs or less:

1. Horizontal or downsloping depression, in the absence of digitalis glycoside treatment or hypokalemia, of the ST segment of at least -0.10 millivolts (-1.0 mm) in at least 3 consecutive complexes that are on a level baseline in any lead other than a VR, and depression of at least -0.10 millivolts lasting for at least 1 minute of recovery; or
2. At least 0.1 millivolt (1 mm) ST elevation above resting baseline in non-infarct leads during both exercise and 1 or more minutes of recovery; or
3. Decrease of 10 mm Hg or more in systolic pressure below the baseline blood pressure or the preceding systolic pressure measured during exercise (see 4.00E9e) due to left ventricular dysfunction, despite an increase in workload; or
4. Documented ischemia at an exercise level equivalent to 5 METs or less on appropriate medically acceptable imaging, such as radionuclide perfusion scans or stress echocardiography.

OR

**B.** Three separate ischemic episodes, each requiring revascularization or not amenable to revascularization (see 4.00E9f), within a consecutive 12-month period (see 4.00A3e).

OR

**C.** Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:

a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or

b. 70 percent or more narrowing of another nonbypassed coronary artery; or

c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or

d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or

e. 70 percent or more narrowing of a bypass graft vessel; and

2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living.

Claimant performed a stress test on [REDACTED] and performed at a level of 10.4 METs (see Exhibit 45). There is no evidence that Claimant had three separate ischemic episodes requiring revascularization. The presented evidence established that Claimant has an ongoing narrowing of 20% of her arteries. Based on the presented evidence, Claimant does not meet the listing for 4.04.

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.

It was noted that Claimant worked from 1998-2011 as a youth program coordinator (see Exhibit 24). Claimant described her duties as a lot of paperwork, completing reports and visiting homes of clients. Claimant stated that her duties required her to lift donations including heavy bags and cans of food. Claimant stated that she could not perform her prior job duties, primarily because her job was stressful. Claimant also doubted that she could perform the lifting required by her old job. Claimant's testimony was credible, un rebutted and consistent with the medical evidence. It is found that Claimant is not capable of performing her past relevant employment. Accordingly, the analysis may proceed to step five.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

It was established at step two of the analysis that Claimant had moderate work restrictions because of her heart. The Class II/Class III functional heart capacities noted by the specialist noted that Claimant is comfortable at rest. It was also established that Claimant has 20% narrowing of two cardiac arteries and that she suffers some degree of fatigue. Claimant testified that she had a five pound lifting restriction but this was unverified. The evidence established that Claimant is capable of performing sedentary employment but not light employment.

Claimant is a 52 year limited to sedentary employment. SSA addresses these specific circumstances in detail:

Individuals approaching advanced age (age 50-54) may be significantly limited in vocational adaptability if they are restricted to sedentary work. When such individuals have no past work experience or can no longer perform vocationally relevant past work and have no transferable skills, a finding of disabled ordinarily obtains. However, recently completed education which provides for direct entry into sedentary work will preclude

such a finding. For this age group, even a high school education or more (ordinarily completed in the remote past) would have little impact for effecting a vocational adjustment unless relevant work experience reflects use of such education. *Appendix 2 to Subpart P of Part 404.*

The above cited SSA philosophy essentially notes the difficulty of persons older than age 50 in adjusting to new employment. It basically notes that persons over 50, even if college educated, should ordinarily be found disabled unless the education was recently obtained or relevant work experience reflects use of such education. There is no evidence that it is more debatable whether Claimant used her education at her relevant employment. It is probable that Claimant's degree assisted her in her social work duties, however, her past duties are not directly on point with her education. Based on the presented evidence, it is found that Claimant's past work does not provide direct entry into skilled work and that her job skills are not transferrable.


Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (college degree but not providing entry into skilled work), employment history (semi-skilled but not transferrable), Medical-Vocational Rule 201.14 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly determined Claimant to be not disabled for purposes of MA benefits.

### **DECISION AND ORDER**

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

- (1) reinstate Claimant's MA benefit application dated 4/12/12 including retroactive MA benefits back to 2/2012;
- (2) evaluate Claimant's eligibility for MA benefits on the basis that Claimant is a disabled individual;
- (3) supplement Claimant for any benefits not received as a result of the improper denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future MA benefits.

The actions taken by DHS are REVERSED.

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

Date Signed: January 8, 2013

Date Mailed: January 8, 2013

**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:

