

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 201242374
Issue No. 2009
Case No. [REDACTED]
Hearing Date: June 20, 2012
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, an in-person hearing was held on June 20, 2012 from Sterling Heights, Michigan. The above named claimant appeared and testified. [REDACTED] appeared as a translator and witness for Claimant. [REDACTED] testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 12/21/11, Claimant applied for MA benefits.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 4/11/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 62-61).
4. On an unspecified date, DHS denied Claimant's application for MA benefits and mailed a notice informing Claimant of the denial.

5. On 3/1/12, Claimant requested a hearing disputing a denial of MA benefits from 12/13/12 related to an application dated 11/28/11 requesting MA benefits.
6. On 5/3/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 19), in part, by determining that Claimant does not have an impairment which significantly limits Claimant's ability to perform basic work activities.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 5'6" and weight of 148 pounds.
8. Claimant has no known relevant history of alcohol, tobacco or drug abuse.
9. Claimant's highest education year completed was high school (in Greece).
10. As of the date of the administrative hearing, Claimant had Macomb County Connect, a medical coverage which covered unspecified medical expenses, but not prescriptions.
11. Claimant alleged that he is a disabled individual based on impairments including: low iron, low potassium, Crohn's Disease and high blood pressure.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The controlling DHS regulations are those that were in effect as of 12/2011, the month of the application which Claimant contends was wrongly denied. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

It should be noted that Claimant originally requested a hearing to dispute a denial of an MA benefit application dated 11/28/11. Claimant testified that he agrees that DHS properly denied the application. Claimant subsequently reapplied for MA benefits on

12/21/11. Claimant's hearing request could not have been tied to the denial of the application dated 12/21/11 because the hearing request was submitted to DHS on 3/1/12, several weeks before DHS denied the application. Despite Claimant's premature hearing request, the application dated 12/21/11 was ultimately denied by DHS due to a finding that Claimant was not disabled. As of the date of the administrative hearing, there is jurisdiction to determine whether Claimant's application dated 12/21/11 was properly denied because DHS denied Claimant's application dated 12/21/11 prior to the hearing date.

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:

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- 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. It should be noted that the exhibits were presented in reverse numbering order; thus, exhibits are noted in high-to-low number.

A Social Summary (Exhibits 60-59) dated [REDACTED] was presented. A Social Summary is a standard DHS form which notes alleged impairments and various other items of information; Claimant's form was completed by a DHS specialist. It was noted that Claimant alleged impairments of Crohn's Disease, anemia, hypertension and high blood pressure. A Social Summary (Exhibits 16-15) dated [REDACTED] was presented. It was noted that Claimant alleged having impairments of high blood pressure, Crohn's Disease, weakness and low iron and potassium.

A Medical Social Questionnaire (Exhibits 5-7) dated [REDACTED] was presented. The form allows for reporting of claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. It was

noted that Claimant complained of low blood, Crohn's Disease and weakness. Claimant noted a previous emergency room trip from 2009 for unspecified reasons. Claimant noted taking the following medications: Pentasa, Potassium supplement, Ferrous Sulfate, Omeprazole, Triamterene and folic acid tablets. A Medical-Social Questionnaire (Exhibits 32, 29, 28a) dated [REDACTED] noted comparable information to the questionnaire dated 9/19/11.

A physical examination report (Exhibits 58-51) dated [REDACTED] was presented. The examining physician was not Claimant's treating physician. It was noted that Claimant reported having 10-15 bowel movements per day. It was noted that Claimant reported anemia, though no history of blood transfusion. An impression was given that Claimant has Crohn's disease and iron deficiency anemia. Claimant's range of motion was found to be normal in all tested areas. No restrictions were found concerning any listed abilities including: walking, standing, lifting, pulling or bending. Claimant's blood pressure was measured at 115/77.

A mental status examination report (Exhibits 50-47) dated [REDACTED] 2 was presented. It was noted that Claimant reported a weight loss from 220 pounds. It was noted that Claimant felt chronic fatigue and forgetfulness. It was noted that Claimant was friendly and cooperative.

The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV). Axis I represents the acute symptoms that need treatment. Axis II is to note personality disorders and developmental disorders. Axis III is intended to note medical or neurological conditions that may influence a psychiatric problem. Axis IV identifies recent psychosocial stressors such as a death of a loved one, divorce or losing a job. Axis V identifies the patient's level of function on a scale of 0-100 in what is called a Global Assessment of Functioning (GAF) Scale. Claimant's Axis I diagnosis was adjustment reaction with disturbance of mood. Axis IV noted unemployment, financial worries and a lack of medical insurance. Claimant's GAF was 55-60. A GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. Claimant's prognosis was fair.

A Medical Examination Report (Exhibits 46-45; duplicated by 14-13) dated [REDACTED] was completed by Claimant's treating physician. It was noted that the physician first treated Claimant on [REDACTED] and last examined Claimant on [REDACTED]. The physician provided a diagnosis of Crohn's Disease. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet his household needs.

A Medical Examination Report (Exhibits 44-43) was completed by Claimant's treating gastroenterologist. The report was undated but was probably completed after [REDACTED] (the apparent DHS print date). It was noted that the physician first treated Claimant on

██████████ and last examined Claimant on ██████████. The physician provided diagnoses of Crohn's Disease and colitis. It was noted that Claimant took Pentasa, Omeprazole and folic acid. It was noted that Claimant had fatigue and abdominal pain and tenderness. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet his household needs.

A third Medical Examination Report (Exhibits 42 and 35) was presented. It was noted that the physician first treated Claimant on ██████████ and last examined Claimant on ██████████. The physician provided diagnoses of Crohn's Disease, hypertension, gastroesophageal reflux disease (GERD) and anemia. The 3 ██████████ dated report noted Claimant's condition was deteriorating. Claimant's gait was noted as good. It was noted that Claimant can meet his household needs.

Medical records (Exhibits 39-36) dated ██████████ related to a colonoscopy were presented. Follow-up documents (Exhibits 41-40) dated ██████████ were also presented. It was noted that Claimant had chronic colitis and Crohn's Disease. It was noted that Claimant's gait showed coordination and no unsteadiness. Claimant's respiratory functioning, cardiovascular functioning and chest were all normal. Claimant's abdomen showed normal bowel sound.

Laboratory test results (Exhibits 26-24) from ██████████ were presented. It was noted that Claimant was out-of-range in several tested areas including: hemoglobin, hematocrit, MCV, MCH, MCHC, RDW SD, RDW CV, potassium, calcium, cholesterol, HDL cholesterol, LDL cholesterol and non-HDL cholesterol. The results were not accompanied by analysis.

Claimant completed an Activities of Daily Living (Exhibits 5-1) dated ██████████; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant's form was completed by a friend. Claimant noted that he had no trouble sleeping at night. Claimant reported that he felt weak and tired during the day. It was noted that Claimant takes longer to care for his personal needs since his illness began. Claimant noted that he does not fix his own meals. Claimant noted he eats less, in part, because he throws up all of the time. It was noted that Claimant does not work around the home due to weakness. It was noted that Claimant needs help shopping due to weakness. It was noted that Claimant's memory is poor. An Activities of Daily Living (Exhibits 34-33, 31-30, 28) dated ██████████ was presented. In response to multiple questions, Claimant noted that he felt weak. Claimant noted having trouble sleeping at night due to bathroom trips. Claimant testified that he has 10-15 bowel movements per day.

Claimant's primary complaint was fatigue and weakness. Claimant testified that he receives steroid injections to help address his chronic fatigue. Fatigue and weakness is a reasonable symptom from established diagnoses of anemia and Crohn's disease.

Various medical records referred to Claimant's complaint of fatigue. There is no doubt that Claimant has fatigue and weakness, but it is less certain how severe the fatigue and weakness are.

Claimant testified that he is too weak to do daily activities such as cleaning, cooking or laundry. He states that he drives, but only a little. Claimant stated he is limited to walking for approximately a quarter mile before needing to sit. Generally, Claimant's testimony was not verified by the medical records. Three Medical Examination Reports were submitted; each one noted that Claimant could meet his household needs. The only medical evidence concerning Claimant's abilities to sit, stand and lift noted that Claimant could perform those activities (see Exhibit 53) though the examiner was not a treating physician. This evidence is supportive of finding that Claimant's complaints of fatigue and weakness do not amount to an impairment to the performance of basic work activities.

Claimant's measured grip strength (68 pounds) is known to be a very poor strength. Claimant's testimony concerning his fatigue was generally credible. Further, two treating physicians noted fatigue as a problem for Claimant. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*. Based on the presented evidence, it is more likely than not that fatigue and weakness significantly impairs Claimant's ability to perform basic work activities.

The evidence established that Claimant's fatigue and weakness has been ongoing for several months. Claimant's condition was noted as stable by two physicians and deteriorating by a third physician. In other words, three physicians concluded that Claimant's condition is not improving. A lack of improvement is persuasive evidence that Claimant's condition has and/or will continue for a period of 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.

The impairment for which Claimant most persuasively established involved Crohn's Disease, a digestive impairment. Digestive impairments are covered by listings in 5.00. The most applicable listing would be for inflammatory bowel disease, which reads:

5.06 Inflammatory bowel disease (IBD) documented by endoscopy, biopsy, appropriate medically acceptable imaging, or operative findings with:

A. Obstruction of stenotic areas (not adhesions) in the small intestine or colon with proximal dilatation, confirmed by appropriate medically acceptable imaging or in surgery, requiring hospitalization for intestinal decompression or for surgery, and occurring on at least two occasions at least 60 days apart within a consecutive 6-month period.

OR

B. Two of the following despite continuing treatment as prescribed and occurring within the same consecutive 6-month period:

1. Anemia with hemoglobin of less than 10.0 g/dL, present on at least two evaluations at least 60 days apart; or
2. Serum albumin of 3.0 g/dL or less, present on at least two evaluations at least 60 days apart; or
3. Clinically documented tender abdominal mass palpable on physical examination with abdominal pain or cramping that is not completely controlled by prescribed narcotic medication, present on at least two evaluations at least 60 days apart; or
4. Perineal disease with a draining abscess or fistula, with pain that is not completely controlled by prescribed narcotic medication, present on at least two evaluations at least 60 days apart; or
5. Involuntary weight loss of at least 10 percent from baseline, as computed in pounds, kilograms, or BMI, present on at least two evaluations at least 60 days apart; or
6. Need for supplemental daily enteral nutrition via a gastrostomy or daily parenteral nutrition via a central venous catheter.

The Crohn's Disease was verified by endoscopy, however, none of the circumstances listed in Parts A or B were met. It is found that Claimant failed to establish meeting the listing for inflammatory bowel disease.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

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 relevant past employment was as a restaurant owner. Claimant testified that he performed several duties in his role as owner including: cooking, cleaning, lifting and anything else the restaurant needed. He stated that his fatigue and constant bathroom use required him to close his restaurant. Claimant stated that he is too chronically weak to perform most of his previous duties. Claimant's testimony was reasonable, credible and supported sufficiently by medical evidence. It is found that Claimant is not capable of performing his past relevant employment.

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 found in step two that Claimant's fatigue and weakness was a significant impairment to the performance of basic work activities. It was not established to what extent Claimant was restricted. Claimant has to be expected to do some walking and standing. As noted above, the medical records simply lacked any support to rule out these activities. However, an expectation of frequent lifting or carrying of objects weighing up to 25 pounds with occasional lifting of 50 pounds appears to be beyond Claimant's capabilities. This finding is supported by the verified diagnosis of Crohn's Disease, testimony, lab results, Claimant's grip strength and treating physician statements concerning fatigue. It is found that Claimant is limited to light employment or less.

Based on Claimant's exertional work level (light), age (advanced), education (high school- no direct entry into skilled work) and employment history (semi-skilled), Medical-Vocational Rule 202.06 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found 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 12/21/11;
- (2) upon reinstatement, 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) if Claimant is found eligible for future MA benefits, to schedule a review of benefits in one year from the date of this administrative decision.

The actions taken by DHS are REVERSED.



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

Date Signed: July 9, 2012

Date Mailed: July 9, 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 to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

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cc:



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