

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201249084
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: July 16, 2012
County: Monroe DHS

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, an in-person hearing was held on July 16, 2012 from Monroe, Michigan. Participants included the above named claimant; [REDACTED] of [REDACTED] appeared as Claimant's authorized hearing representative (AHR). 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) 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 8/23/11, Claimant applied for MA benefits including retroactive MA benefits for 7/2011.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 1/17/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 7-8).
4. On 1/28/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial (see Exhibits 4-6).

5. On 4/20/12, Claimant requested a hearing disputing the denial of MA benefits (see Exhibit 2).
6. On 6/12/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual, in part, by determining that Claimant refused treatment for correctable impairments (see Exhibit 488).
7. On 7/16/12, an administrative hearing was held.
8. On 7/20/12, an administrative order was issued giving claimant until the deadline of 9/16/12 to present hospital records related to admissions from 5/2012 and 6/2012.
9. Claimant failed to submit any additional medical records by the deadline.
10. As of the date of the administrative hearing, Claimant was a 48 year old female with a height of 5'8 ½" and weight of 170 pounds.
11. Claimant has a relevant history of tobacco and alcohol abuse.
12. Claimant's highest education year completed was the 12th grade.
13. As of the date of the administrative hearing, Claimant was eligible for Adult Medical Program (AMP) benefits, but stated that she is unable to find a physician who accepts the coverage.
14. Claimant alleged that she is disabled based on impairments and symptoms including: pancreatitis, blood clots, chronic pneumonia, chronic obstructive pulmonary disorder (COPD), arthritis, back pain, hearing problems, vision problems, leg pain and a medical history which includes a heart attack.

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 (RTM).

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. 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 (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 impairment amounts to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the relevant submitted medical documentation.

A Social Summary (Exhibits 10-14) dated 12/22/11 was presented. Claimant's form was completed by a Medicaid advocate. It was noted that Claimant had impairments of: bipolar disorder, depression, anxiety, chest pain and coronary heart disease. It was noted that Claimant reported a history of: clotting problems, pulmonary embolisms, chronic back pain, memory loss and memory problems.

A Medical Social Questionnaire (Exhibits 15-17) dated 12/22/11 was presented. Claimant's form was completed by a Medicaid advocate. The form allows for reporting of claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. Additional impairments of blurred vision and chest pains were noted. Hospitalizations were noted from: [REDACTED] for pneumonia, [REDACTED] for myocardial infarction, [REDACTED] for pulmonary embolism and [REDACTED] for abdominal surgery.

Hospital documents (Exhibits 297-317; 319-368; 431-443) dated 1/2011 were presented. It was noted that Claimant presented to the hospital with complaints of abnormal bruising, nausea and vomiting. An assessment of acute pancreatitis most likely related to alcohol was provided.

Hospital documents (Exhibits 235-296; 370) dated [REDACTED] were presented. It was noted that Claimant was admitted to the hospital based on complaints of shortness of breath. Claimant also reported nausea and vomiting. An impression of sepsis and community-acquired pneumonia were noted. Discharge diagnoses included: community-acquired pneumonia with resolved sepsis, chronic liver disease with mild transaminitis which is stable, thrombocytopenia (stable), chronic tobacco and alcohol abuse, hypomagnesemia and hypertension.

Hospital documents (Exhibits 371-430) dated [REDACTED] were presented. Impressions of COPD exacerbation and pneumonia were noted.

Hospital documents (Exhibits 98-220; 444-487) were presented. The documents verified an admission date of [REDACTED] and discharge date of [REDACTED]. It was noted that Claimant

presented with nausea, vomiting and abdominal pain. It was noted that Claimant reported not drinking alcohol in the last week; yet had a blood alcohol level of 295. It was noted that Claimant was offered rehab but Claimant refused the offer. An ultrasound of Claimant's abdomen suggested pancreatitis. Claimant also complained of chest pain during the hospitalization. It was noted that Claimant was positive for DVT and a PE in a lung. A poor prognosis was given due to probable alcohol noncompliance by Claimant. A primary diagnosis of pancreatitis was given; it was noted to be likely secondary to alcohol abuse.

Hospital documents (Exhibits 23-48) were presented. The documents noted a [REDACTED] admission and a discharge date of 9/8/11. It was noted that Claimant presented to the hospital while intoxicated. It was noted that Claimant reported that her primary care physician advised her to go to the emergency room because her international normalized ratio was slightly low; it was also noted that it was unclear why such a referral would have been recommended. It was noted that Claimant was noncompliant and a chronic alcoholic. It was noted that Claimant was counseled several times concerning alcohol abuse but to no avail. It was noted that Claimant's COPD and depression were stable. It was noted that Claimant was chronically anemic due to alcohol abuse. A primary diagnosis of pulmonary embolus was given.

A Radiology Report (Exhibit 48) dated [REDACTED] was presented. It was noted that there was marked improvement since [REDACTED]. It was noted there was no apparent evidence of a new or recurrent pulmonary emboli. Claimant's lungs were noted as clear. It was noted that the aorta was normal in course and caliber. A small residual filling defect was noted in the left lower lobe pulmonary artery.

Hospital documents (Exhibits 49-97) were presented. The documents verified an admission on 9/22/11 following reporting of chest pain, anxiety and lower back pain. An EKG was noted as normal. Claimant's blood alcohol was noted as elevated. It was noted that Claimant smokes a pack and a half of cigarettes per day. It was noted that a chest x-ray showed subsegmental pneumonia. An impression was given on [REDACTED] of: bilateral infiltrate, probably atelectasis versus PE, history of DVT with poor compliance, chronic pain with no known etiology and alcohol intoxication.

A Radiology Report (Exhibit 96) dated [REDACTED] noted postsurgical changes at L5 without evidence of spinal canal compromise and spondyloarthrosis in the lower lumbar spine. A mild osteophyte and disc complex were noted at L4-L5. All other lumbar vertebrae were noted as having no evidence of disc pathology or stenosis (either spinal or bilateral foraminal).

Claimant testified that she was hospitalized for a week in approximately 5/2012, or 6/2012. Claimant received additional time to submit the hospital documents. The documents were not submitted.

Claimant testified that she requires the use of a stool to shower. Claimant testified that she limits her grooming due to her various physical problems. Claimant stated that she

cooks while sitting and sits down to do the dishes. Claimant stated that she does her own laundry, though she does it slowly.

Claimant stated she had good days and bad days. Claimant stated on bad days she can walk no further than 3 feet; on good days Claimant stated she can walk approximately 70 feet. Claimant stated she can typically stand 5-10 minutes. Claimant estimated that she can sit no more than 10-15 minutes due to radiating leg pain. Claimant stated that her hands sometimes go numb, which affects her gripping ability. Claimant stated that she sometimes uses a cane or walker. Claimant stated that she takes 1-3 different medications, including Coumadin and Vicodin.

The Social Summary alleged that Claimant had three psychological obstacles: anxiety, bipolar disorder and depression. No psychological treatment records were provided. References were made to depression and anxiety in hospital records but there was little evidence of treatment. The evidence does not support any impairment to performing basic work activities based on psychological disorders.

Claimant complained of several exertional symptoms. Claimant stated she has shortness of breath, leg swelling, migraine headaches, leg pain, back pain, vision problems and forgetfulness. The presented medical records verified treatment in 2011 for pancreatitis, pneumonia, back pain and DVT. Claimant's complaints were noted in the hospital records. The combination of Claimant's verified symptoms were sufficient to establish a significant impairment to performing basic work activities, at least based on a de minimus standard.

Claimant's symptoms and treatment are verified back to early 2011. Claimant's application for MA benefits occurred in 8/2011. The most recently submitted record is from 9/2011. As noted above, Claimant missed an opportunity to submit more recent hospital records. No consideration will be given to Claimant for hospitalizations which were not verified. Claimant stated that her lifting, walking and standing restrictions have persisted since 9/2011. Claimant's testimony was not verified but will be given deference based on the de minimus standard required at step two. It is found that Claimant's impairments have and/or will last 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.

Claimant's primary impairment was from pancreatitis and its symptoms. Chronic pancreatitis has no specific SSA listing. A SSA listing commonly applied to pancreatitis

is Listing 5.08 which addresses weight loss concerning digestive disorders. Disability can be established by:

5.08 Weight loss due to any digestive disorder despite continuing treatment as prescribed, with BMI of less than 17.50 calculated on at least two evaluations at least 60 days apart within a consecutive 6-month period.

There was no evidence of a substantial weight loss by Claimant. The record was devoid of Claimant's BMI measurement. There is insufficient evidence to find that Claimant meets Listing 5.08.

Claimant complained of leg swelling, presumably caused by inadequate blood flow in her legs. This is a symptom of DVT. SSA does not have a listing for DVT but has a listing based on a symptom of inadequate blood flow. This listing reads:

4.11 Chronic venous insufficiency of a lower extremity with incompetency or obstruction of the deep venous system and one of the following:

A. Extensive brawny edema (see 4.00G3) involving at least two-thirds of the leg between the ankle and knee or the distal one-third of the lower extremity between the ankle and hip.

OR

B. Superficial varicosities, stasis dermatitis, and either recurrent ulceration or persistent ulceration that has not healed following at least 3 months of prescribed treatment.

There was a reference to an edematous pancreas (see Exhibit 482). Despite ample medical records, no other known references were made to edema, ulceration, or varicosities or other conditions which could be considered in determining whether Claimant meets the above listing. There is insufficient evidence that Claimant meets the listing for chronic venous insufficiency.

A listing for COPD (Listing 3.02) was considered based on past medical history and complaints of shortness of breath. This listing was rejected due to a lack of any medical testing of Claimant's respiratory capabilities.

A listing for visual acuity (Listing 2.02) was considered based on complaints of vision loss. This listing was rejected due to a failure to establish a corrected eyesight of worse than 20/200 in Claimant's worst eye.

A listing for hearing loss (Listing 2.10) was considered based on complaints of hearing loss. This listing was rejected due to a lack of hearing testing records.

A listing for chronic heart failure (Listing 4.02) was considered based on a heart attack in Claimant's medical history. An EKG performed on [REDACTED] showed no abnormalities (see Exhibit 63). This listing was rejected due to a lack of evidence of cardiac problems.

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 testified that she had a single period of 60 days where she performed full-time work. Claimant stated that she helped make car seats. Claimant stated that she was part of a factory assembly line and that she was expected to lift up to 75 pounds. Claimant stated that she is unable to perform the lifting necessary to do the employment. Claimant's testimony was reasonable based on the medical evidence. It is found that Claimant cannot perform her past relevant employment. The disability analysis may proceed to the fifth step.

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 sedentary employment will be considered. Restrictions involving hand grasping, sitting, lifting, walking and are each relevant to sedentary employment.

The presented medical records are devoid of any specific restrictions to Claimant's abilities. Despite the absence, some conclusions can be made based on the medical records.

Claimant alleged that her hands occasionally numb. There are no references to hand numbing in any of the presented medical records. The diagnoses of DVT and/or pancreatitis are not by themselves sufficient evidence of hand numbness. It is found that Claimant is capable of the hand grasping necessary for many types of sedentary employment.

Claimant alleged that she is limited to 8-10 pounds of lifting. An ability to lift 8-10 pounds is within the requirements of most types of sedentary employment. It is found that Claimant is capable of the lifting required for sedentary employment.

Claimant alleged that she is limited to walking for only a few feet, even on a good day. The diagnoses of pancreatitis, DVT and COPD are suggestive of possible walking restrictions, but are far from verifying specific restrictions.

The presented evidence established treatment most recently in [REDACTED]. The lack of recent treatment is supportive of finding fewer restrictions.

There was evidence of back pain based on a lumbar spinal MRI (see Exhibit 96). The absence of stenosis tends to support that Claimant's back pain is not disabling. The impressions of a mild osteophyte at L4-L5 and a left laminectomy are not particularly indicative of disabling back pain.

The diagnosis for pancreatitis is concerning. Pancreatitis is known to be a potentially disabling condition with serious consequences. If Claimant's pancreatitis were chronic, it would be persuasive evidence supporting a finding of disability. The 9/23/11 hospital admission did not refer to pancreatitis in what appeared to be a final impression (see Exhibit 69). Pancreatitis was noted in the 8/2011 hospital discharge, but it was noted as acute, not chronic (see Exhibit 126). Overall, the evidence was unresponsive of disability based on pancreatitis.

Claimant's COPD was noted as stable (see Exhibit 23) on 9/8/11. An EKG noted Claimant's heart was stable. Claimant's shortness of breath appeared to be caused by pneumonia. There is a lack of evidence that pneumonia is a chronic problem for Claimant. Based on the presented evidence, it is found that Claimant is capable of performing a sedentary level of employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (limited but literate and able to communicate in English), employment history (unskilled), Medical-Vocational Rule 201.18 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.

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 MA benefit application dated 8/23/11 including Claimant's request for retroactive MA benefits for 7/2011 based on a determination that Claimant is not disabled. The actions taken by DHS are AFFIRMED.



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

Date Signed: 10/9/2012

Date Mailed: 10/9/2012

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

CG/hw

cc:



C. Gardocki
MAHS