

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201253214
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: August 1, 2012
County: Wayne DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 1, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 3/20/12, Claimant applied for SDA and MA benefits, including retroactive MA benefits for 12/2011-2/2012.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 5/10/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).
4. On 5/15/12, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 5/18/12, Claimant requested a hearing disputing the denial of MA and SDA benefits.
6. On 6/28/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 26-27), in part, by application of Medical-Vocational Rule 201.24.
7. On 8/1/12, an administrative hearing was held.
8. Claimant was given until 9/11/12 to submit additional medical evidence.
9. Claimant failed to submit additional medical evidence.
10. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 5'10 " and weight of 151 pounds.
11. Claimant has a history of alcohol abuse but he stated that he stopped drinking approximately two months prior to 8/1/12.
12. Claimant's highest education year completed was the 8th grade.
13. As of the date of the administrative hearing, Claimant received ongoing prescription coverage through a non-profit agency.
14. Claimant alleged that he is disabled based on impairments and issues including: back problems, depression and leg weakness.

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 monthly income limit considered SGA for non-blind individuals is \$1,010.

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.

A Social Summary (Exhibits 3-4) dated 4/5/12 was presented and signed by Claimant's DHS specialist. It was noted that Claimant alleged impairments of: spinal cord injury, depression and a leg injury. It was noted that Claimant's spinal cord injury was related to a 1995 gun shot wound. It was noted that Claimant suffered ongoing pain, memory loss and restrictions in standing, sitting and walking. It was noted that Claimant uses a cane to walk.

A Medical Social Questionnaire (Exhibits 5-7) was presented. The Claimant-completed form was undated but was printed by DHS on [REDACTED]. It was noted that Claimant reported a permanent injury to his spinal cord and that he has muscle spasms in his legs. Claimant listed hospital encounters from 2/2010, 5/2011, 7/2011 and 4/2012, each related to issues of pain. Claimant noted that he takes Neurontin for nerve damage.

A Medical Examination Report (Exhibits 8-9) dated [REDACTED] was completed by a physician. It was noted that the physician first and last treated Claimant on 3/30/12. The physician provided diagnoses of chronic neuropathic pain related to a spinal cord injury. An impression was given that Claimant's condition was stable to deteriorating. It was noted that Claimant needed assistance with cleaning and meals. Claimant's left side strength was noted as 4/5 and his right side strength was 4.5/5.

A Psychiatric Evaluation (Exhibits 12-17) dated [REDACTED] was presented. It was noted that Claimant was referred for evaluation after expressing depression and suicidal thoughts. It was noted that Claimant had anger issues related to his pain. It was noted that Claimant was briefly hospitalized in 1/2011 after playing Russian roulette. Claimant testified that he placed the gun to his head and pulled the trigger. Claimant also testified that he has attempted suicide 3-4 times in his life. It was noted that Claimant was jailed from 11/2011-2/2012 for assault and battery. It was noted that Claimant has flashbacks and nightmares about the shooting. The following was noted concerning Claimant's mental status: good grooming and hygiene, auditory hallucinations of voices that tell him to get the person who shot him, severely depressed mood, pre-occupied thought content, appropriate behavior, tense and blunted affect, slow speech and fair concentration. It was noted that Claimant would begin taking Cymbalta for depression and Seroquel as a mood stabilizer.

The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV). Axis I diagnoses included: recurring and severe major depressive disorder, post-traumatic stress disorder and alcohol abuse. A GAF of

45 was provided. A GAF within the range of 41-50 is representative of a person with “serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job).”

Claimant completed an Activities of Daily Living (Exhibits 18-22) dated [REDACTED]; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted trouble sleeping due to chronic pain. Claimant noted taking naps daily due to drowsiness from his medications. Claimant noted limitations in squatting, and standing. Claimant noted he fixes his own meals. Claimant noted he has lost his appetite due to depression. Claimant noted he does light dishwashing every few days and that he cannot do any other cleaning. Claimant noted that he does not shop because he quickly tires. Claimant noted he does not read and he does not watch much television. Claimant noted he has bimonthly visits with his grandmother.

Claimant alleged that he had significant exertional restrictions to performing basic work activities. Claimant stated that he was significantly restricted in walking, standing, sitting and lifting. There were references made to Claimant’s physical problems in a psychiatric evaluation, but those references were presumably based on Claimant’s statements rather than medical testing. The medical evidence included only two pages of medical records. A Medical Examination Report established a diagnosis of chronic neuropathy stemming from a spinal injury. Claimant’s strength was verified as somewhat decreased and it was noted that Claimant needed assistance with cleaning and meals. Some presumption of work restrictions can be made based merely on the diagnosis, deteriorating nature of the diagnosis and need for assistance with daily living activities. Reasonable restrictions that can be deduced would be lifting and walking restrictions.

There was some evidence supporting a finding that Claimant had psychological restrictions to performing basic work activities. Claimant was diagnosed with severe depression. Claimant’s GAF of 45 is representative of serious psychological symptoms. Based on the evidence, some presumption can be made that Claimant is restricted from performing basic work activities. Reasonable restrictions that can be deduced would be problems with concentration and motivation. Based on the presented evidence and applying a de minimus standard, it is found that Claimant established having significant impairments to performing basic work activities.

In establishing impairments expected to last 12 months, the ideal medical evidence would be a trail of medical records over the course of a 12 month period. The present case only offers a single document for each of Claimant’s impairments. Again, a reasonable but limited conclusion can be made simply based on the diagnoses. Neuropathy and depression are of a nature that improvement is not probable, at least without some change in health coverage. Claimant gave persuasive testimony that physical problems have persisted since a gun shot wound from several years earlier. Based on the presented evidence, it is found that Claimant meets the durational requirements to having significant impairment to performing basic work activities.

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 testified that he is physically limited due to back pain. Back problems are covered by SSA Listing 1.04 which reads:

1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine);

OR

B. Spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours;

OR

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

No evidence was presented to establish that Claimant suffers nerve root compression, arachnoiditis or stenosis. There was no recent evidence of an MRI or CT scan. Based on the presented evidence, it can only be found that Claimant does not meet the listing for 1.04.

Claimant also alleged an impairment of depression The listing for depression is covered by affective disorders and reads:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it

generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
 1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or

2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Looking at Part B of the above listing, there was evidence of difficulties Claimant had with concentration based on references to panic attacks and paranoia in the psychiatric evaluation. There was also evidence of social functioning problems based on a recent assault and battery conviction and references to Claimant's anger. However, the evidence is simply too sparse to conclude that Claimant is markedly limited in each area. It is known that Claimant has no recent history of episodes of decompensation (i.e. hospitalizations).

Similarly, the medical evidence was lacking concerning Part C. There was no evidence that increasing Claimant's mental demands would cause Claimant to regress psychologically. Claimant testified that he lives place-to-place and there was no evidence that he requires a particularly supportive living environment. It is found that Claimant failed to meet the listing for affective disorders.

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 listed his employment history in Exhibit 7. Claimant testified that he last worked in 2011 but was fired after an assault and battery. Claimant stated that he has no employment from the previous 15 years which was full-time. If Claimant has no past relevant employment, it can only be concluded that Claimant is unable to perform past relevant employment moving the disability analysis on 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).

For purposes of step five, an analysis of sedentary employment will be the only exertional employment to be considered. Claimant was found to have exertional restrictions to lifting and walking based on neuropathy. Claimant stated that he was limited to sitting for 10-15 minute periods due to back pain, but this evidence is not verified by medical record. The neuropathy diagnosis is too vague to verify such a restriction. The need for help with cleaning and cooking would not preclude performance of sedentary activities. Though lifting and walking restrictions were presumed at step two, there is no evidence to believe that Claimant could not perform the walking and lifting necessary for sedentary employment.

Claimant also stated that he is in chronic pain. It was verified that Claimant was referred to a pain clinic to address his pain complaints (see Exhibit 8). Though the evidence supports that Claimant has ongoing pain, the evidence simply does not allow a conclusion that pain prevents Claimant from performing employment.

It was established in step two that Claimant had psychological impairments to performing basic work activities. However, there is simply a lack of medical evidence to conclude that Claimant is so impaired that he cannot perform simpler and relatively less stressful types of employment. Thus, Claimant is found to be capable of performing SGA despite his psychological impairments. Based on the presented evidence, it is found that Claimant is found to be capable of performing simple types of sedentary employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 18-44) education (less than high school 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.

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

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

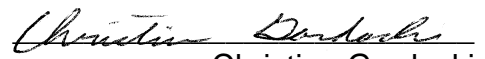
A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

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

It has already been found that Claimant is not disabled for purposes of MA benefits based on application of Medical-Vocational Rule 201.18. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS properly denied Claimant's application for SDA benefits.

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 and SDA benefit application dated 3/20/12, including retroactive MA benefits for 12/2011-2/2012, 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: 9/21/2012

Date Mailed: 9/21/2012

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:

