

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201258743
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: October 4, 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 October 4, 2012 from Monroe, Michigan. Participants included the above named claimant; [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) and State Disability Assistance (SDA) on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 1/27/12, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 5/29/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 7-8).
4. On 6/5/12, DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action (Exhibits 4-6) informing Claimant of the denial.

5. On 6/12/12, Claimant requested a hearing disputing the denial of MA and SDA benefits (see Exhibits 2-3).
6. On 7/29/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 65-66), in part, by application of Medical-Vocational Rule 204.00.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old female with a height of 5'6" and weight of 140 pounds.
8. Claimant has no relevant history of tobacco, alcohol or illegal substance abuse
9. Claimant's highest education year completed was the 8th grade.
10. As of the date of the administrative hearing, Claimant had health coverage through Monroe County which provided limited coverage for doctor appointments and prescriptions.
11. Claimant alleged that she is disabled based on impairments and issues including: neuropathy, heart problems, headaches, neck pain and stomach pain.

CONCLUSIONS OF LAW

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

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

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2012 income limit is \$1010/month.

In the present case, Claimant performed ongoing employment as a chore service provider for her mother. Claimant's gross pay was approximately \$349/month, though Claimant stated that her mother kept a portion of Claimant's income. No evidence was submitted to contradict Claimant's testimony. Without ongoing employment exceeding the SGA income limit, 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 relevant submitted medical documentation.

A Social Summary (Exhibits 31-32) dated 2/29/12 was presented. Claimant's form was completed by an eligibility specialist. It was noted that Claimant alleged impairments of: neuropathy, closed head injury and arthritis.

A Medical Social Questionnaire (Exhibits 33-34) dated 2/14/12 was presented. The standard DHS form was completed by Claimant. Claimant noted having impairments of: neuropathy, arthritis, closed head injury, a bad ankle, numbness in her legs, heart problems and costochondritis. The following previous hospital encounters were listed: in 1990 for a motor vehicle accident, in 2003 regarding an ankle injury, in 11/2010 concerning brown urine and head ringing and in 7/2011 for a domestic violence issue.

An SSA decision (Exhibits 48-59) dated 1/22/93 was presented. The decision concerned a person with a last name different from Claimant's, presumably Claimant's maiden name. The decision was favorable for Claimant.

An echocardiogram report (Exhibits 23-24) dated 1/18/11 was presented. An impression of an essentially normal echocardiography study was given.

An exercise stress test report (Exhibits 25-26) dated 1/18/11 was presented. It was noted that Claimant had good overall exercise tolerance. It was noted that Claimant had normal blood pressure response. It was noted that no arrhythmia was found.

An examination report (Exhibit 27) dated 1/18/11 was presented. The report was in response to Claimant's complaints of chest pain. An impression of no focal reversible ischemia was noted.

A radiology report (exhibit 42) concerning Claimant's right breast was presented. The exam was noted as occurring on 5/13/11. Benign findings were noted.

A radiology report (Exhibit 43) dated 5/13/11 was presented. The report was in response to Claimant's complaints of vaginal pain. Impressions of non-visualization of Claimant's right ovary and otherwise unremarkable findings were given. Benign findings were noted.

A second page of an unknown radiology report (Exhibit 41) dated 6/22/11 was presented. An impression of small fat containing umbilical hernia was noted. An impression was also given for a likely lipoma and a likely cyst in Claimant's liver. Multiple pelvic osseous anomalies were also noted.

An x-ray report of Claimant's knee (Exhibit 39) dated 7/23/11 was presented. An impression of mild degenerative changes in the right knee was noted. It was also noted that there was no acute fracture or dislocation.

An x-ray report (Exhibit 40) dated 7/23/11 of Claimant's right hip was presented. An impression was given of an old right pelvic fracture deformity within the right ischium was noted. It was also noted that there was no acute fracture or dislocation.

Hospital documents (Exhibits 28-30) dated 9/18/11 were presented. It was noted that Claimant complained of muscle spasms throughout her body and feeling anxious. It was noted that Claimant hears a popping noise and that the noise corresponds with headaches. It was noted that Claimant complained of weight loss and anorexia, though no weight loss was reported. It was noted that Claimant complained of blurred and double vision, though she denied eye pain or vision loss. It was noted that Claimant complained of ear pain and dizziness, though she denied hearing loss. It was noted that Claimant complained of anxiety but she denied having panic attacks or depression. It was also noted that Claimant also complained of: nausea, vomiting, arm pain, back pain, bone pain, foot pain, hand pain, hip pain, knee pain, leg pain, neck pain, shoulder pain, fatigue and sleeping difficulties. A physical examination of the following areas occurred: general appearance, eyes, ears/nose/throat, neck, respiratory, cardiovascular, abdomen, lymphatic, musculoskeletal, neurological and psychiatric. The examination results were noteworthy only in the lack of any abnormalities.

A prescription (Exhibit 38) dated 9/21/11 was presented. The prescription was for vitamin B12 and folate testing and a complete metabolic profile.

A letter (Exhibit 22) dated 1/27/12 from a physician at a heart center was presented. It was noted that Claimant is doing better after starting on Imdur though she still has some chest pain.

An untitled and unsigned document (Exhibit 21) dated 1/19/12 was presented. The document is purportedly an attachment to the letter represented as Exhibit 22. It was noted that Claimant reported mild chest pain, leg pain, headaches, palpitations and other unidentified problems. A physical examination was performed; it was noted that: a murmur or gallop could not be heard, abdomen was soft and non-tender, no pedal edema in extremities, Claimant was alert x3 and that Claimant had no hallucinations. It was noted that Claimant has neuropathy, chest pain, palpitations among other identified issues. It was noted that a stress echo was ordered and further recommendations would be forthcoming.

A consultative physical examination report (Exhibits 9-17) dated 4/14/12 was presented. It was noted that Claimant reported suffering a stroke in 11/2010. Claimant reported a history of headaches and dizziness. It was noted that Claimant was involved in a 1990 motor vehicle accident which led to multiple operations including reconstructive facial surgery. It was noted that Claimant suffers aggravated pain when standing, stooping, lifting, bending, pushing reaching and climbing stairs. It was noted that Claimant

reported pains in her neck, shoulders, elbow, arm and right ankle pain. A physical examination was performed by the consultative physician. Claimant's gait and stance were noted as normal. It was noted that Claimant could slowly tandem walk, toe walk, and heel walk. All tested ranges of motions were normal except for forward hip flexion. It was noted that Claimant could perform all 23 listed physical activities, but with pain. All tested reflexes were normal.

A consultative psychological examination report dated 4/14/12 was presented. It was noted that Claimant reported various family and physical problems. The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV). An Axis I diagnosis of major depressive disorder, single episode with psychotic features was provided. A Global Assessment of Functioning level of 50 and a fair prognosis were given. 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 35-37) dated 2/14/12; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted sleeping difficulties due to pain, Claimant noted that she performs cooking for herself and her mother. Claimant noted that she performs all chores except shoveling snow and cutting the lawn. Claimant noted that she performs all kind of shopping. Claimant noted she visits with her mother and her neighbor. Claimant noted that the popping, zapping and pain have been too much lately. Claimant noted that her chest pain has increased.

Claimant testified that she has a two block walking limit due to right knee swelling and pain. Claimant stated she is limited to two minutes of standing on a bad day with similar sitting restrictions. Claimant stated that she occasionally uses a cane.

Looking at Claimant's exertional restrictions, there is little evidence to support a finding that Claimant is significantly limited. Multiple radiology reports from 2011 verified either minor or zero notable physical problems with Claimant. Benign findings were noted concerning complaints of genital and breast pain. Claimant's heart evaluations showed no murmurs. Claimant's ejection fraction of 69% is representative of a normal functioning heart. Mild degenerative changes were noted in the right knee but this is far from a significant impairment to performing basic work activities.

Claimant noted that the reports all occurred in 2011 and are not necessarily reflective of her current physical problems. The 2012 medical documentation is somewhat more persuasive in finding physical problems, but only just. Despite numerous reports of pain by Claimant, the physical examination from 1/19/12 was wholly unremarkable. The physical examination from 4/14/12 noted that Claimant had full ranges in all tested motions but for hip flexion. The only findings in support of an impairment was that Claimant performed her walking tests slowly and that she could perform all physical activities but with pain.

Despite the absence of medical evidence of an exertional impairment to performing basic work activities, that is not a finding that Claimant does not have pains, aches and troubles. It is quite conceivable that Claimant endures significant pain which is not yet diagnosed. Claimant's testimony can be factored in a disability administrative decision but it cannot serve as essentially the sole evidence of disability. Based on the presented evidence, there is no basis to find that Claimant is significantly impaired to performing basic work activities based on exertional problems.

There was some evidence of Claimant's psychological impairments. The consultative examiner from 4/14/12 noted that Claimant's GAF was 50. The GAF is, by definition, evidence of marked restrictions in functioning. The examiner went on to opine that Claimant could follow simple instructions and would be restricted to performing simple and routine repetitive tasks. The examiner also noted that Claimant would be further restricted to work involving brief and superficial interactions. The limitation noted by the consultative examiner implies that Claimant would be incapable of performing SGA requiring in-depth social interactions and complex and/or less repetitive tasks. These restrictions are sufficient to conclude that Claimant is significantly impaired from performing basic work activities.

Claimant has no history of psychological treatment. Thus, it cannot be stated with much certainty that Claimant's impairments have lasted for a 12 month period. There is little reason to believe that Claimant's depression and symptoms will improve within 12 months. It is found that Claimant established meeting the durational requirements for suffering a significant impairment to performing basic work activities.

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

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

Claimant's most prominent impairment appears to be 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.

Starting first with Part B, there was little to no evidence that Claimant was markedly restricted in performing daily activities. Claimant stated that she not only does her own cooking and cleaning, but she also assists her mother. There is similarly a lack of evidence of repeated episodes of decompensation.

There were restrictions established in maintaining social functioning and concentration based on the GAF and work restrictions noted by the consultative examiner. Despite the restrictions, little evidence points to Claimant suffering marked restrictions. Claimant correctly answered most of the examiner's questions, For example, it was noted that Claimant named five cities and five famous people and events "with no problem". It was noted that Claimant was in contact with reality though some psychomotor retardation was present. This evidence supports less than a marked restriction in concentration. Even if it was found that Claimant was markedly restricted in social functioning, Claimant cannot meet Part B of the affective disorder listing.

Looking at Part C, there is little evidence that Claimant has repeated episodes of decompensation, is unable to function independently or suffers a residual disease process whereby a minimal increase in demands would cause decompensation. As noted above, Claimant tends to her own and her mother's needs.

As Claimant meets neither Parts B nor C of the above listing, it is found that Claimant does not meet the listing for affective disorders. The listing for 12.02 (Organic Mental Disorders) was considered and rejected for identical reasons.

A listing for peripheral neuropathies (Listing 11.14) was considered based on Claimant's claim that she had neuropathy. This listing was rejected due to a failure to establish a disorganization of motor function despite prescribed treatment.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. This listing was rejected because it was not established that Claimant has an inability to effectively ambulate.

Listings for Ischemic Heart Disease (Listing 4.04) and Recurrent Arrhythmias (Listing 4.05) were considered based on Claimant's heart problem complaints. These listing were rejected due to a lack of any evidence of heart 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 noted that she had two full-time jobs in the last 15 years. For a period of 6-7 months in 2001-2002, Claimant was a cashier and stockperson at an airport retail store. Claimant also stated that she was a machinist and quality controller for an auto parts company from 1998-2001.

Claimant stated that her work for the auto parts company involved lifting of 25-40 pounds which she can no longer perform. Claimant's testimony is reasonably credible despite the general lack of evidence of exertional impairments.

Claimant stated that she would be too unreliable if she attempted to return to her retail employment. A detailed description of Claimant's employment was not provided. It was established that Claimant could perform work requiring simple transactions and interactions. It is concerning that she was fired from the job for having an argument with a supervisor (which is evidence of a social restriction). For purposes of this decision, it will be accepted that Claimant would be unable to perform her past employment and the analysis may proceed to step five.

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

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

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

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

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

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

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

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

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's

circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

As noted by the consultative examiner on 4/14/12, Claimant is capable of performing repetitive and simple tasks with superficial social interactions. These restrictions would allow Claimant to perform a limited range of employment, but not one so limited to single-handedly justify a finding of disability.

As noted in the second step analysis, there is little evidence of exertional restrictions to Claimant's work capabilities. Despite Claimant's testimony that she is severely limited in sitting and standing,, the medical evidence does not support her testimony. Claimant is capable of performing at least an exertional level of light work.

Based on Claimant's exertional work level (light), age (younger individual), education (limited but literate in English), employment history (unskilled), Medical-Vocational Rule 201.17 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 201.17. 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 1/27/12 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: 10/17/2012

Date Mailed: 10/17/2012

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:

