

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-66001
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: January 9, 2013
Ottawa County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on Wednesday, January 9, 2013. Claimant personally appeared and testified with his attorney, [REDACTED] P# 27 762, from Legal Aid of Western Michigan.

ISSUE

Did the Department of Human Services (the department) properly determine that claimant was no longer disabled and deny her/his review application for Medical Assistance (MA-P) and State Disability Assistance (SDA) based upon medical improvement?

FINDINGS OF FACT

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

1. In March 2012, claimant filed a medical review application for MA-P and SDA benefits alleging continued disability.
2. On July 9, 2012, the Medical Review Team denied claimant's application stating that claimant had medical improvement for MA-P and SDA.
3. On July 13, 2012, the department case worker sent claimant notice that his/her Medical Assistance case would be cancelled based upon medical improvement for MA and SDA.
4. On July 19, 2013, claimant filed a request for a hearing to contest the department's negative action.

5. On September 5, 2012, the State Hearing Review Team denied claimant's medical review application. The claimant is alleging disability due to bipolar disorder, chronic pain, and back problems. He is 45 years old and has an 11th grade education with a history of skilled work. The claimant is not engaging in substantial gainful activity at this time. The claimant's severe impairments do not meet or equal any listing. Despite the impairments, he retains the capacity to perform unskilled work. Therefore, based on the claimant's vocational profile (younger individual, 11th grade education, and medium work history); MA-P is denied using Vocational Rule 204.00 as a guide. SDA is denied per PEM 261 because the information in file is inadequate to ascertain whether the claimant is or would be disabled for 90 days.
6. During the hearing on January 9, 2013, the claimant requested permission to submit additional medical information that needed to be reviewed by SHRT. Additional medical information was received from the local office and forwarded to SHRT for review on February 11, 2013 and February 22, 2013.
7. On April 11, 2013, the SHRT considered the newly submitted objective medical evidence in making its determination of medical review of MA-P and SDA. The SHRT report reads in part that the claimant is 46 years old and alleges disability secondarily due to low back pain, depression, and anxiety. He has a less than high school education and a history of sedentary, light, and medium exertional, unskilled employment.

The medical evidence of record indicates that significant medical improvement has been evidenced (20 CFR 416.994) and that the following now applies to this claimant that the claimant is not currently engaged in substantial gainful activity based on the information that is available in the file. The claimant's impairments/combination of impairments does not meet/equal the intent or severity of a Social Security Administration (SSA) listing.

The medical evidence of record indicates that the claimant retains the capacity to perform light, exertional tasks of a simple and repetitive nature. DAA is present, but not material to this determination. The claimant's past work was as visual inspector, production worker, and packer. As such, the claimant would be unable to perform the duties associated with their past work. Likewise, the claimant's past work skills will not transfer to other occupations.

Therefore, based on the claimant's vocational profile (46 years old, a less than high school education, and a history of sedentary, light and medium exertional, unskilled employment, continuing MA-P is denied per 20 CFR 416.920(e&g), using the Vocational Rule 202.17 as a guide. Continuing SDA is denied per BEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above stated level for 90 days. Retroactive MA-P was not considered as part of

the continuing MA-P and SDA only review. Listings 1.04, 11.14, and 12.03/04/06/08/09 were considered in this determination.

8. The claimant is a 46 year-old man whose birth date is [REDACTED]. Claimant is 6' 1" tall and weighs 259 pounds. Claimant completed the 11th grade of high school graduate. The claimant is able to read and write and do basic math. The claimant last worked as a laborer in 2008 at the light level. The claimant was also employed as masonry for a summer, drywall installer, and a factory worker at the light level.
9. Claimant alleges as disabling impairments of bipolar disorder, chronic pain, depression, and anxiety.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

"Disability" is:

...the inability to do any substantial gainful activity 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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled.

We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

Medical history.

Clinical findings (such as the results of physical or mental status examinations); Laboratory findings (such as blood pressure, X-rays); Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable to do any substantial gainful activity 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological

abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

...In deciding whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. 20 CFR 416.927(b).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

...If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence. 20 CFR 416.927(c)(1).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment(s).... 20 CFR 416.945(a).

...In determining whether you are disabled, we will consider all of your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with objective medical evidence, and other evidence.... 20 CFR 416.929(a).

...In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about

how your symptoms affect you... We will then determine the extent to which your alleged functional limitations or restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work.... 20 CFR 416.929(a).

If you have more than one impairment, we will consider all of your impairments of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based upon all of the relevant evidence. This assessment of your capacity for work is not a decision on whether you are disabled but is used as a basis for determining the particular types of work you may be able to do despite your impairment. 20 CFR 416.945.

...When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work. 20 CFR 416.945(b).

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

Federal regulations require that the department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

"Disability" is:

...the inability to do any substantial gainful activity 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

In general, claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). In this case, the claimant is not engaged in substantial gainful activity and has not worked since 2008.

Secondly, if the individual has an impairment or combination of impairments which meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 of Chapter 20, disability is found to continue. 20 CFR 416.994(b)(5)(ii). In this case, the claimant's impairments or combination of impairments do not meet or equal the severity of an impairment listed in Appendix 1. Therefore, the claimant is disqualified from receiving disability at Step 2.

In the third step of the sequential evaluation, the trier of fact must determine whether there has been medical improvement as defined in 20 CFR 416.994(b)(1)(i). 20 CFR 416.994(b)(5)(iii). Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most recent favorable medical decision that the claimant was disabled or continues to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs, and/or laboratory findings associated with claimant's impairment(s). If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 4 (which examines whether the medical improvement is related to the claimant's ability to do work). If there

has been no decrease in medical severity and thus no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

There were two reports submitted from Community Mental Health (CMH) of his last two appointments. On November 20, 2012, the claimant underwent a Medication Review with Community Mental Health. The claimant had a normal mental status exam where he was alert and cooperative with relevant and coherent speech. His affect was bright and pleasant. The claimant denied any current suicidal or homicidal ideation, intent, or plan. He denied any audio or visual hallucinations, current paranoia, or delusion, or flight of ideas reported. He was oriented times 3. His memory and concentration seemed grossly intact. In addition, his insight and judgment seem fair at that time. His current GAF was 55. Department Exhibit a-c. On August 17, 2012, the claimant had lost 10 pounds and was pleased during the last few months. He had a normal mental status exam. The claimant was diagnosed with Major Depressive Disorder, recurrent, severe with psychotic features, no psychosis with current medications, alcohol dependence, in early partial remission where he reported that he last used alcohol 6 weeks ago. He had a tier II diagnosis of personality disorder with NOS with cluster B traits. His current GAF was 55. Department Exhibit d-f.

On December 10, 2012, the claimant had a radiology report at Parkhurst Chiropractic. The claimant had a history of cervical, thoracic, and lumbar pain. The radiologist's impression was degenerative endplate changes in the cervical and lumbar spine. Disc space was reduced at the cervical, thoracic, and lumbar spine. A decreased lumbar curve was noted. Anterolisthesis was seen at L4. Bone density appeared adequate. The claimant was diagnosed with moderate DDD at C5, C6, and L4. He had Grade 1 spondylolisthesis at L4. The claimant was also diagnosed with mild degenerative disc disease and mild degenerative bone changes. Department Exhibit g.

On October 26, 2011, the claimant underwent an MRI of the lumbar spine without contrast at Zeeland Community Hospital. The claimant was diagnosed with bilateral pars defects at L4 with mild grade 1 anterior spondyloisthesis at L4 to L5. There was moderate to severe bilateral neural foraminal encroachment at the L4-5 level. There was no evidence of any significant canal stenosis. Department Exhibit h-i.

There were two reports submitted from his treating physician of his last two appointments. On September 5, 2012, the claimant was seen by his treating physician at InterCare. The claimant has a history of back pain. His symptoms are aggravated by increased physical activity where his treating physician was recommending changes in his medications as a treatment option. The claimant had a normal physical examination except his treating physician noted that he had muscle spasms in his lumbar spine with moderately reduced range of motion. The claimant had a normal mental status examination. Department Exhibit m-n. On June 5, 2012, the claimant's treating physician noted that the claimant's back pain was worsening. He pain was aggravated by changing positions. Physical therapy was not helping and neither were his pain medications. He had a normal physical examination with the treating physician noted

lumbar spine had muscle spasms with moderate pain with motion. The claimant also had a normal mental status examination. Department Exhibit j-l.

At Step 3, this Administrative Law Judge finds that claimant does have medical improvement and his medical improvement is related to the claimant's ability to perform substantial gainful activity. The claimant has been seen at CMH where through medication and therapy he achieved a GAF of 55 that shows moderate symptoms or moderate difficulty in social, occupational, or school functioning. He had a normal physical examination from his treating physician. His back issues were noted and treated with medication and physical therapy with limited success. The claimant does have moderate to mild back issues as documented in his MRI and radiology reported. As a result, the claimant will be limited to simple, unskilled, light work. The claimant has had medical improvement resulting in a decrease in medical severity. Therefore, the claimant is disqualified for receiving continued disability at Step 3.

In Step 4 of the sequential evaluation, the trier of fact must determine whether medical improvement is related to claimant's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv). 20 CFR 416.994(b)(5)(iv). It is the finding of this Administrative Law Judge, after careful review of the record, that there has been medical improvement.

At Step 4, the claimant does perform his daily living activities. The claimant felt that his condition has worsened because he has increased numbness in legs and pain in his lower back. The claimant testified that he did have mental impairments of depression and anxiety that is worsened by stress. He is able to walk $\frac{1}{2}$ to $\frac{1}{4}$ of a mile. He can stand for 10 minutes and sit for 30 minutes. The heaviest weight that he felt he could lift was 10 pounds. The claimant does smoke 2 packs a day. The claimant stopped drinking alcohol in 2011 where he is fighting alcoholism. He has used pot in high school. The claimant did not think there was any work that he could do.

At Step 4, the claimant has previously been employed at the light level. The claimant is taking medication for his mental impairments. He has limited range of motion in his lower back. The claimant only completed the 11th grade of high school. The claimant should be able to perform simple, unskilled, light work. Therefore, the claimant is disqualified from receiving disability at Step 4. If there is a finding of medical improvement related to claimant's ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth step of the sequential evaluation, the trier of fact is to determine whether the claimant's current impairment(s) is severe per 20 CFR 416.921. 20 CFR 416.994(b)(5)(vi). This Administrative Law Judge finds that the claimant does meet severity. In this case, this Administrative Law Judge finds claimant can perform at least simple, unskilled, light work even with his impairments. Therefore, the claimant is disqualified from receiving disability at Step 6.

If the residual functional capacity assessment reveals significant limitations upon a claimant's ability to engage in basic work activities, the trier of fact moves to Step 7 in the sequential evaluation process. In the seventh step of the sequential evaluation, the trier of fact is to assess a claimant's current ability to engage in substantial gainful activities in accordance with 20 CFR 416.960 through 416.969. 20 CFR 416.994(b)(5)(vii). The trier of fact is to assess the claimant's current residual functional capacity based on all current impairments and consider whether the claimant can still do work he has done in the past. He can perform his past work as a laborer or factory worker at the simple, unskilled, light level. In this case, this Administrative Law Judge finds that claimant should be able to perform simple, unskilled, and light, past work.

In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, based upon the claimant's vocational profile of a younger individual, with a limited or less education, and a history of simple, unskilled, light work, MA-P is denied using Vocational Rule 202.17 as a guide. This Administrative Law Judge finds that claimant does have medical improvement in this case and the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to cancel claimant's MA-P benefits based upon medical improvement.

The department's Program Eligibility Manual provides the following policy statements and instructions for caseworkers regarding the SDA program.

DISABILITY – SDA

DEPARTMENT POLICY

SDA

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Note: There is no disability requirement for AMP. PEM 261, p. 1.

DISABILITY

A person is disabled for SDA purposes if he:

- . receives other specified disability-related benefits or services, 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.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Other Benefits or Services

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- . Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- . Supplemental Security Income (SSI), due to disability or blindness.
- . Medicaid (including spend-down) as blind or disabled if the disability/blindness is based on:
 - .. a DE/MRT/SRT determination, or
 - .. a hearing decision, or
 - .. having SSI based on blindness or disability recently terminated (within the past 12 months) for financial reasons.

Medicaid received by former SSI recipients based on policies in PEM 150 under **"SSI TERMINATIONS," INCLUDING "MA While Appealing Disability Termination,"** does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria. See **"Medical Certification of Disability"** below.

- . Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has an active MRS case. Do not refer or

advise applicants to apply for MRS for the purpose of qualifying for SDA.

- . Special education services from the local intermediate school district. To qualify, the person may be:
 - .. attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - .. not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as "special education" as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- . Refugee or asylee who lost eligibility for Social Security Income (SSI) due to exceeding the maximum time limit PEM, Item 261, pp. 1-2.

Because the claimant does not meet the definition of continued disabled under the MA-P program and because the evidence on record does not establish that claimant is unable to work for a period exceeding 90 days, the claimant does not meet the disability criteria for continued State Disability Assistance benefits either.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established on the record that it was acting in compliance with department policy when it denied claimant's continued disability for MA-P and SDA. The claimant should be able to perform simple, unskilled, light work. The department has established its case by a preponderance of the evidence. The claimant does not have medical improvement based upon the objective medical findings in the file.

Accordingly, the department's decision is **AFFIRMED**.

Carmen

/s/

G. Fahie
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 17, 2013

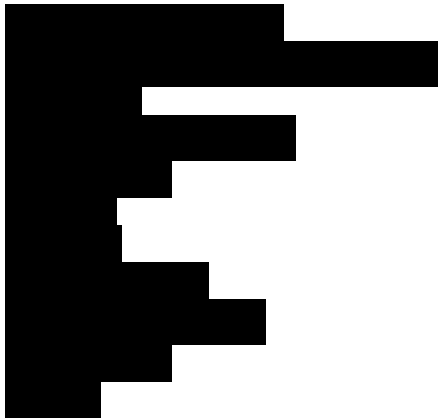
Date Mailed: May 20, 2013

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

CGF/hj

cc:

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