

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 20126738
Issue No. 2009; 4031
Case No. [REDACTED]
Hearing Date: January 23, 2012
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on January 23, 2012 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 7/22/11, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On 9/28/11, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 7-8).
4. On 10/4/11, 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 10/20/11, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On 12/14/11, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 80-81), in part, by application of Vocational Rule 202.20.
7. On 1/23/12, an administrative hearing was held.
8. On 1/23/12, an interim order was issued giving Claimant 30 days to submit additional medical documentation.
9. On an unspecified date, the new medical evidence was submitted and then forwarded to SHRT for a reconsideration of disability.
10. On 3/27/12, SHRT determined that Claimant was not a disabled individual (see Exhibits 86-87), in part, by application of Medical-Vocational Rule 201.27.
11. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male [REDACTED] with a height of 5'11 " and weight of 337 pounds.
12. Claimant smokes approximately 10 cigarettes per day and has no known relevant history of alcohol or illegal drug abuse
13. Claimant's highest completed level of education was 12th grade.
14. As of the date of the hearing, Claimant received no medical coverage and had not received coverage since 7/2011.
15. Claimant alleged to be a disabled individual based on impairments of: obesity, leg sores, left knee deterioration, depression and a leg blood clot.

CONCLUSIONS OF LAW

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

The controlling DHS regulations are those that were in effect as of 7/2011, the month of the application which Claimant contends was wrongly denied. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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

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

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

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

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

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

Substantial gainful activity means a person does the following:

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

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

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

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

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2011 monthly income limit considered SGA for non-blind individuals is \$1,000.

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).

In determining whether Claimant's impairments amount to a severe impairment, all relevant evidence may be considered. The analysis will begin with the submitted medical documentation. Some documents were admitted as exhibits but were not necessarily relevant to the disability analysis; thus, there may be gaps in exhibit numbers.

A Social Summary (Exhibits 9-10) dated 8/11/11 was presented. This DHS form is intended to be completed by DHS specialists and serves as a summary of various information concerning disability applicants. It was noted that Claimant claimed impairments of asthma and emotional impairment. The specialist noted that Claimant reported an inability to climb stairs or walk or stand for a long period of time. Claimant reported that his knee bothered him badly. It was noted that Claimant reported being depressed.

A Medical Social Questionnaire (Exhibits 11-13) dated [REDACTED] was presented. The Claimant completed form allows for reporting of impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history. Claimant noted a height of 6'11" though Claimant testified that he was 5'11". Claimant's testimony is believed to reflect his correct height. A Medical Examination Report (Exhibits 14-15) also noted that Claimant was 5'11" which tends to support that

Claimant is not nearly seven feet tall. Claimant listed that he took prescriptions for Coumadin and Motrin. Claimant also noted he used lotion for his left leg. Claimant also noted problems with his knees and depression.

Five previous hospital encounters were noted. Claimant seemed to indicate that each of the encounters were emergency room visits rather than hospital admissions based on a notation of "ER" next to each of the encounters. Claimant listed a 2007 hospital encounter for DVT/PE. This is presumed to refer to deep vein thrombosis (DVT) and pulmonary embolism (PE). Claimant noted a hospital encounter from 2/2005-4/2005 concerning DVT/PE. Claimant separately listed an ER trip for DVT/PE in 4/2005. Claimant also listed a knee issue from 1/1998 and a left hand fracture from 1997. Claimant also noted receiving breathing and psychological testing while in prison.

A Medical Examination Report (Exhibits 14-15) was completed by Claimant's treating physician. The DHS form was undated but it was noted that the physician first treated Claimant on [REDACTED] and last treated Claimant on [REDACTED]. A diagnosis of DVT/PE (2005), depression, morbid obesity, allergies and "OA-BIL knees" (presumed to mean osteoarthritis in bilateral portion of the knee). It was noted that Claimant took prescriptions for Coumadin (6 mg) and Motrin (600 mg). Claimant's condition was noted as stable. It was noted that Claimant can meet his household needs. Documents (Exhibits 18-21) from the treating physician's medical facility and signed by the treating physician on [REDACTED] tended to reiterate the information from the Medical Examination Report.

Claimant completed an Activities of Daily Living (Exhibits 27-31) dated [REDACTED]; the DHS form is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted that he cries himself to sleep and that he is depressed a lot. Claimant noted that he has pain shooting in his knees. Claimant noted that he has to wear a special sock to maintain his leg circulation. Claimant noted that he fixes his own meals, shops and cleans his house, each without assistance from others. Claimant noted he reads the Bible. Claimant noted he has no hobbies or interests and does not visit with friends or family. Claimant noted he feels like he has been in a car accident and has difficulty climbing stairs.

A Psychiatric Evaluation (Exhibits 42-43) dated [REDACTED] was provided by a psychiatrist. Claimant reported being depressed for many years. It was noted that Claimant was recently released from prison following a three year sentence. The evaluation did not note whether any specific tests or questions were put to Claimant. It was noted that Claimant demonstrated: good grooming, timeliness, orientation, calm behavior, social smile, sadness, a logical and coherent thought process, intact judgment, normal speech, good eye contact, average intelligence and fair insight. It was noted that Claimant demonstrated none of the following: psychosis, delusions, compulsive thoughts, suicidal thoughts or homicidal thoughts.

The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM4). Axis I represents the acute symptoms that need treatment. Axis II is to note personality disorders and developmental disorders. Axis III is intended to note medical or neurological conditions that may influence a psychiatric problem. Axis IV identifies recent psychosocial stressors such as a death of a loved one, divorce or losing a job. Axis V identifies the patient's level of function on a scale of 0-100 in what is called a Global Assessment of Functioning (GAF) Scale.

An Axis I diagnosis of dysthymic disorder was noted. Axis II was deferred. Axis III noted DVT/PE. Axis IV noted legal problems. Claimant's GAF was 54. A GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning.

Treatment records (Exhibits 44-79) from the Bureau of Health Care Services were presented. It was noted on [REDACTED] that Claimant had chronic problems of thrombosis and required long-term use of anti-coagulants. It was noted that Claimant had mild edema in his legs and severe problems with varicose veins in his left leg (see Exhibit 44). On [REDACTED], an assessment of chronic DVT and PE was given (see Exhibit 52).

Documents (Exhibits 82-83) related to a physical examination dated [REDACTED] were presented. The examiner's signature appeared to match the signature of Claimant's treating physician (see Exhibit 15). It was noted that Claimant was capable of sitting, standing, bending and many other basic work activities without limitation. Claimant was limited to 25 pound limits of carrying, pushing and pulling. It was noted Claimant used a cane and walked slowly; the examining physician found evidence to support need for a cane. It was noted that Claimant had difficulty squatting. It was noted that Claimant lacked a Hoffman's reflex.

The examiner also identified restrictions on specific basic work activities (see Exhibits 84-85). Claimant's lifting and carrying was noted as allowed frequently for items under 10 pounds, frequently for weights of 10 pounds and occasionally for items up to 25 pounds. Claimant was noted as capable of standing or walking 1-2 hours per day. Claimant was capable of sitting up to 8 hours per day with alternating standing and sitting every hour. It was noted that Claimant must elevate leg regularly due to DVT. Claimant was limited in pushing and pulling with his left arm.

Claimant testified that he had a half block walking restriction due to his leg pain. Claimant estimated he had a five pound lifting limit. Claimant says he was capable of many daily activities such as: bathing, grooming, cooking, cleaning and shopping (as long as he could lean on a cart).

Based on the presented evidence, it was established that Claimant's DVT/PE impairment restricted his walking significantly. Claimant's physician verified Claimant's need for a cane. The physician also limited Claimant's walking to 1-2 hours per day. Claimant's left arm and hand were also limited. Claimant's ability to pull, grasp and carry with his left hand and arm was also verified as restricted by Claimant's physician. It is found that Claimant established impairments to basic work activities.

Claimant's left arm and hand problems were established as starting several years ago. There was not a clear start date for the DVT/PE impairment, but it is known that the problem began at least 12 months prior to the date of the hearing and that there has been no notable evidence of improvement. It is found that Claimant established meeting the durational requirements for a severe impairment.

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 to be deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

One of Claimant's primary impairments involved leg pain from DVT/PE. Cardiovascular impairments are covered by Listing 4.00. Vein deficiencies are best covered by Listing 4.11 which reads:

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

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

OR

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

As noted above, SSA defines brawny edema in Listing 4.00G3. This section reads:

3. *What is brawny edema? Brawny edema (4.11A) is swelling that is usually dense and feels firm due to the presence of increased connective tissue; it is also associated with characteristic skin pigmentation changes.*

20126738/CG

It is not the same thing as pitting edema. Brawny edema generally does not pit (indent on pressure), and the terms are not interchangeable. Pitting edema does not satisfy the requirements of 4.11A.

There were references to edema in the medical packet (see Exhibits 15, 21 and 44). There were no specific references to brawny edema or what percentage of Claimant's legs were affected. Without specific medical verification, it can only be found that Claimant failed to establish meeting Part A of the above listing.

There were also references to ulcers in the medical packet. Claimant's physician referred to a healed ulcer (see Exhibits 15 and 21). There was no evidence pointing to ulcers lasting for three month periods. The evidence failed to establish that Claimant meets Part B of the above listing. It is found that Claimant failed to establish meeting the listing for chronic venous insufficiency.

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

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. The listing was rejected due to an inability to establish an inability to ambulate effectively or an inability to perform fine and gross movements effectively.

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

20126738/CG

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 submitted a history of employment (see Exhibit 13). Claimant also testified to his work history.

Claimant last worked as a supervisor and inspector between 9/2007-11/2007. Claimant stated the job required standing for most of his eight hour shift. Claimant also noted the job required moving boxes which weight approximately 20 pounds.

Claimant stated that he briefly worked as a mattress salesman from 7/2007-8/2007. Claimant stated that the job was mostly sitting but sometimes required him to deliver mattresses and to perform some heavy lifting.

Claimant worked as a furniture salesman from 1/2001-3/2006. Claimant stated that the job required a lot of standing and some lifting of furniture.

Claimant testified that he is unable to perform the lifting and standing requirements of his past employment. Claimant's testimony was consistent with restrictions from Claimant's physician. It is found that Claimant is not able to perform his past relevant employment.

In the fifth and last 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).

Starting with Claimant's psychological capabilities, it is known that Claimant suffers from dysthymic disorder. There was no evidence of psychological restrictions. Claimant's GAF of 54 is not particularly high, but it is not so low that employment restrictions can be inferred. Medical records show Claimant was specifically identified as calm and cooperative, and with intact judgment (see Exhibit 42). Claimant was also noted as lacking delusional thought, obsessive behaviors or a potential threat to others. It is found that Claimant has no significant psychological barrier to performing employment.

Claimant's proper exertional level of employment is primarily dictated by Claimant's treating physician's restrictions (see Exhibits 82-85). It was noted that Claimant is capable of walking 1-2 hours per 8 hour work day, can lift items frequently weighing 10 pounds (subject to left arm and hand restrictions) and is capable of sitting 8 hours with alternating sitting and standing. These restrictions would prohibit employment more exertional than sedentary but would not prevent the performance of sedentary employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 18-44), education (high school) and employment history (unskilled), Medical-Vocational Rule 201.27 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

20126738/CG

- 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 201.27. The analysis and finding equally applies to Claimant's application for SDA benefits. It is found that DHS properly found Claimant to be not disabled for purposes of 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 MA and SDA benefits to Claimant based on a determination that Claimant was not disabled. The actions taken by DHS are AFFIRMED.



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

Date Signed: April 4, 2012

Date Mailed: April 4, 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:

20126738/CG

- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

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

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cc:

