

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

IN THE MATTER OF:



Reg. No: 201272240
Issue No: 2009, 4031
Case No: [REDACTED]
Hearing Date: December 13, 2013
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 December 13, 2012. The claimant personally appeared and provided testimony. The claimant was represented by [REDACTED], paralegal with Legal Services of Eastern Michigan.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA), retroactive Medical Assistance, and State Disability Assistance (SDA) benefits?

FINDINGS OF FACT

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

1. On May 29, 2012, claimant filed an application for Medical Assistance, retroactive Medical Assistance, and State Disability Assistance benefits alleging disability.
2. On July 25, 2012, the Medical Review Team denied claimant's application stating that claimant was capable of performing other work.
3. On August 13, 2012, the department caseworker sent claimant notice that his application was denied.
4. On August 20, 2012, claimant filed a request for a hearing to contest the department's negative action.

5. On October 11, 2012, the State Hearing Review Team again denied claimant's application stating that the claimant retains the capacity to perform sedentary exertional tasks and that the evidence does not support the presence of severe psychiatric limitations.
6. After the hearing, the record was left open to allow the State Hearing Review Team to review additional medical documentation that was provided by the claimant at the hearing. Said documentation was subsequently forwarded to the State Hearing Review Team for review. On February 4, 2013, the State Hearing Review Team again denied the claimant's application stating that the claimant retains the ability to perform sedentary exertional tasks and that the evidence does not support the presence of severe psychiatric limitations.
7. On September 8, 2011, the claimant was seen by [REDACTED] due to an acute onset of a left wrist drop. The claimant was noted to have normal strength, bulk, and tone in his right upper extremity and in his bilateral lower extremities. A sensory examination was decreased in the left superficial nerve distribution but was otherwise unremarkable. The claimant's gait, stance, and tandem gait were unremarkable. The doctor found that the claimant had a left wrist drop due to compression of the left radial nerve around the spiral groove of the humerus. It was further noted that there was no clinical evidence to suggest any radiculopathy. (Department Exhibit A pages 22-24).
8. The claimant was seen by [REDACTED] on June 29, 2011 for an evaluation of lower back and right lower extremity pain. The claimant was noted to ambulate using a cane and to have a loss of lumbar lordosis. He was further noted to have markedly painful restricted lumbar segmental mobility in all spheres with minimal movements. The claimant had a positive seated straight leg raising for radicular pain on the right. The claimant had strength within normal limits, normal sensation, and normal and symmetric reflexes. Gait was noted to be antalgic favoring the right side. [REDACTED] also reviewed an MRI of February 16, 2011 noting that it demonstrated postlaminectomy defect at L5-S1 and extensive epidural fibrosis on the right at encasing the S1 nerve root. (Department Exhibit A pages 25-26).
9. On February 16, 2011, the claimant underwent an MRI of the lumbar spine. The results showed mild degenerative disc disease present; greatest at L4-5 and L5-S1. At L5-S1, it was noted that there was a small right paracentral disc protrusion present with extensive enhancing tissue that surrounds the right S1 nerve root just after it exits the thecal sac on the right. No central canal stenosis was evident and there was mild narrowing of the right neural foramen. L4-5 demonstrated a disc bulge symmetric to the right. No central canal stenosis was evident. Moderate

narrowing of the left neural foramen and mild narrowing of the right neural foramen were present. Mild disc bulges were also noted at L3-4 and L2-3. (Department Exhibit A pages 27-28).

10. On September 20, 2011, the claimant was seen by his primary care physician, Dr. Longe. The claimant was seen as a follow up after presenting to the ER with an inability to move his hand and wrist. He was assessed with acute left wrist and hand paresis, acute right sided back pain with leg pain, and irritable bowel syndrome. It was noted that the claimant did have a little movement with his wrist and hand and was using his hand to get his phone out of his pocket. (Claimant Exhibit 1 pages 27-28).
11. On June 29, 2011, the claimant was seen by [REDACTED]. The doctor's impression was that of postsurgical low back pain and epidural fibrosis. The doctor did not recommend further epidural injections due to the claimant's failure to respond to the same in the past and did recommend consideration of a spinal cord stimulator. The claimant was noted to ambulate using a cane, he had markedly painful restricted lumbar segmental mobility in all spheres with minimal movements and positive seated straight leg raising for radicular pain on the right. The claimant's strength was within normal limits, sensation was normal, reflexes were normal and symmetric, and gait was antalgic favoring the right side. The doctor reviewed a February 16, 2011 MRI and noted post laminectomy defect at L5-S1 and extensive epidural fibrosis on the right and encasing the S1 nerve root. (Claimant Exhibit 1 Page 34).
12. The claimant was seen at [REDACTED] on April 23, 2011 for a psychiatric evaluation. The claimant was noted to be alert, have normal orientation and memory, and knowledge consistent with his education. He was noted to have normal perception, good insight, and good judgment. He was given an Axis I diagnosis of Mood Disorder NOS. (Claimant Exhibit 4).
13. On March 28, 2012, the claimant was seen by [REDACTED] at Flint Gastroenterology Associates PC. The claimant was noted to have nausea, vomiting, and constipation with suspected underlying irritable bowel syndrome exacerbated by anxiety and/or depression or psychiatric illness. (Department Exhibit A pages 29-30).
14. Claimant is a 34 year old man, date of birth [REDACTED]. She stands 5'9" tall and weighs 149 lbs. He completed high school and received a diploma. He has no additional formal education or training. The claimant is not currently working and has not worked since 2010. He previously worked doing retail and as a meat cutter at Kroger.

15. The claimant stated that he had filed an application for Social Security Disability benefits and was denied at application. He went to hearing where he was given an unfavorable decision. He testified that he has appealed that unfavorable decision.

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). 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...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.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work

experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he/she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" and that said impairment(s) have met the duration requirement (20 CFR 404.1520(c) and 416.920(a)(2)(ii) and (c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). In order for an impairment(s) to meet the duration requirement, the impairment(s) must have lasted or be expected to last for at least 12 months, unless the impairment(s) is expected to result in death (20 CFR 416.909). If the claimant does not have a severe medically determinable impairment or combination of impairments that have met the duration requirement, he/she is not disabled. If the claimant has a severe impairment or combination of impairments that have met the duration requirement, the analysis proceeds to the third step.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);

- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

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

Medical evidence 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 the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he/she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he/she is disabled.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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.... 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

In determining how a severe mental impairment affects the client's ability to work, four areas considered to be essential to work are looked at:

...Activities of daily living including adaptive activities such as cleaning, shopping, cooking, taking public transportation, paying bills, maintaining a residence, caring appropriately for one's grooming and hygiene, using telephones and directories, using a post office, etc. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(1).

..Social functioning refers to an individual's capacity to interact independently, appropriately, effectively, and on a sustained basis with other individuals. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

Social functioning includes the ability to get along with others, such as family members, friends, neighbors, grocery clerks, landlords, or bus drivers. You may demonstrate impaired social functioning by, for example, a history of altercations, evictions, firings, fear of strangers, avoidance of interpersonal relationships, or social isolation. You may exhibit strength in social functioning by such things as your ability to initiate social contacts with others, communicate clearly with others, or interact and actively participate in group activities. We also need to consider cooperative behaviors, consideration for others, awareness of others' feelings, and social maturity. Social functioning in work situations may involve interactions with the public, responding appropriately to persons in authority (e.g., supervisors), or cooperative behaviors involving coworkers. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

We do not define "marked" by a specific number of different behaviors in which social functioning is impaired, but by the nature and overall degree of interference with function. For example, if you are highly antagonistic, uncooperative or hostile but are tolerated by local storekeepers, we may nevertheless find that you have a marked limitation in social functioning because that behavior is not acceptable in other social contexts. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(2).

...Concentration, persistence or pace refers to the ability to sustain focused attention and concentration sufficiently long to permit the timely and appropriate completion of tasks commonly found in work settings. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(3).

Limitations in concentration, persistence, or pace are best observed in work settings, but may also be reflected by limitations in other settings. In addition, major limitations in this area can often be assessed through clinical examination or psychological testing. Wherever possible, however, a mental status examination or psychological test data should be supplemented by other available evidence. 20 CFR, Part 404, Subpart P, App. 1, 12.00(C)(3).

Episodes of decompensation are exacerbations or temporary increases in symptoms or signs accompanied by a loss of adaptive functioning, as manifested by difficulties in performing activities of daily living, maintaining social relationships, or maintaining concentration, persistence, or pace. 20 CFR 404, Subpart P, App. 1, 12.00(C)(4).

Episodes of decompensation may be demonstrated by an exacerbation in symptoms or signs that would ordinarily require increased treatment or a less stressful situation (or a combination of the two). Episodes of decompensation may be inferred from medical records showing significant alteration in medication; or documentation of the need for a more structured psychological support system (e.g., hospitalizations, placement in a halfway house, or a highly structured and directing household); or other relevant information in the record about the existence, severity, and duration of the episode. 20 CFR 404, Subpart P, App. 1, 12.00(C)(4).

The evaluation of disability on the basis of a mental disorder requires sufficient evidence to: (1) establish the presence of a medically determinable mental impairment(s); (2) assess the degree of functional limitation the impairment(s) imposes; and (3) project the probable duration of the impairment(s). Medical evidence must be sufficiently complete and detailed as to symptoms, signs, and laboratory findings to permit an independent determination. In addition, we will consider information from other sources when we determine how the established impairment(s) affects your ability to function. We will consider all relevant evidence in your case record. 20 CFR 404, Subpart P, App. 1, 12.00(D).

When we rate the degree of limitation in the first three functional areas (activities of daily living; social functioning; and concentration, persistence, or pace), we will use the following five-point scale: none, slight, moderate, marked, and extreme. When we rate the degree of limitation in the fourth functional area (episodes of decompensation), we will use the following four-point scale: none, one or two, three, four or more. The last is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c).

After we rate the degree of functional limitation resulting from the impairment(s), we will determine the severity of your mental impairment(s). 20 CFR 416.920a(d).

If we rate the degree of your limitation in the first three functional areas as “none” or “mild” and “none” in the fourth area, we will generally conclude that your impairment(s) is not severe, unless the evidence otherwise indicates that there is more than a minimal limitation in your ability to do any basic work activities. 20 CFR 416.920a(d)(1).

If your mental impairment(s) is severe, we will then determine if it meets or is equivalent in severity to a listed mental disorder. We do this by comparing the diagnostic medical findings about your impairment(s) and the rating of the degree of functional limitation to the criteria of the appropriate listed mental disorder. 20 CFR 416.920a(d)(2).

If we find that you have a severe mental impairment(s) that neither meets nor is equivalent in severity to any listing, we will then assess your residual functional capacity. 20 CFR 416.920a(d)(3).

At Step 1, claimant is not currently working and has not worked since 2010. The claimant is not precluded from a finding of disability at Step 1. The Administrative law Judge will then proceed with the sequential evaluation.

At Step 2, the claimant’s symptoms are evaluated to see if there is an underlying medically determinable physical or mental impairment(s) that could reasonably be expected to produce the claimant’s pain or other symptoms and has met the durational requirement. This must be shown by medically acceptable clinical and laboratory diagnostic techniques. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of the claimant’s symptoms to determine the extent to which they limit the claimant’s ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

This Administrative Law Judge finds that the objective medical evidence of record does support the claimant’s contention that he is suffering from a severe physical impairment that has lasted for 12 months. The objective medical evidence of record shows claimant’s impairments do meet the *de minimus* level of severity and duration required for further analysis. However, the Administrative Law Judge does not find that the objective medical evidence of record supports the contention that the claimant is

suffering from a severe mental impairment that has lasted for 12 months. The claimant's medical records from his treating physician (Dr. Longe) show a diagnosis of bipolar disorder, but his psychiatric evaluation shows a diagnosis of Mood Disorder NOS. There are no records from a psychiatrist or psychologist which show a diagnosis of bipolar nor are there any treatment notes for the same. There is no objective medical evidence contained in the record to show that the claimant's mental impairment has more than a minimal effect on his ability to perform work related functions. Accordingly, the undersigned Administrative Law Judge finds that the claimant is suffering from a severe physical impairment but not from a severe mental impairment. The claimant is therefore not precluded from a finding of disability at Step 2. The Administrative Law Judge will then proceed with the sequential evaluation.

The analysis then proceeds to Step 3. The objective medical evidence of record does not support a finding that claimant's diagnosed impairments, standing alone or combined, are severe enough to meet or equal any specifically listed impairments; consequently, the analysis must continue.

At Step 4, it must be determined whether or not claimant has the ability to perform her past relevant work. The claimant has a history of semi skilled to skilled work which was exertionally light to heavy. The objective medical evidence contained in the record supports the contention that the claimant would no longer be able to perform light exertional work. Therefore, the claimant would be precluded from performing his past relevant work. Accordingly, the claimant is not precluded from a finding of disability at Step 4, and the Administrative Law Judge will proceed with the sequential evaluation.

At Step 5, this Administrative Law Judge must determine whether or not claimant has the residual functional capacity to perform some other jobs in the national economy. This Administrative Law Judge finds that the objective medical evidence on the record does not establish that claimant has no residual functional capacity.

The objective medical evidence shows that the claimant retains the residual functional capacity to perform sedentary work. The objective medical evidence does not show restrictions that would preclude the claimant from being able to perform even sedentary tasks. The claimant's treating physician, [REDACTED] opined that the claimant was incapacitated by pain and that activity or remaining in one position worsened that pain (see Claimant Exhibit 1 page 61). However, the doctor's opinion gives no specific limitations, nor does it specifically describe how the claimant's work activities are affected by the impairment/pain. Additionally, the doctor's opinion as to the claimant's incapacity is not supported by the great weight of the medical evidence contained in the record. The objective medical evidence in the record shows that the claimant would be able to perform sedentary work even with his impairments.

The claimant is disqualified from receiving disability at Step 5 as the objective medical evidence shows that he can perform sedentary work even with his impairments. Therefore, the medical evidence of record establishes that the claimant retains the

residual functional capacity to perform sedentary work. A finding of disability is therefore precluded at Step 5.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969. Under the Medical-Vocational guidelines, a younger individual (age 34) with a high school education and a semi/skilled to skilled work history (without transferable skills) who is capable of sedentary work is not considered disabled pursuant to Vocational Rule 201.28.

The claimant has not presented the required competent, material and substantial evidence which would support a finding that the claimant has an impairment or combination of impairments which results in the inability to engage in any substantial gainful activity. Although the claimant has cited medical problems, the clinical documentation submitted by the claimant is not sufficient to establish a finding that the claimant is disabled. There is no objective medical evidence to substantiate the claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disability. The claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of 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 State Disability Assistance benefits.

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 determined that claimant was not eligible to receive Medical Assistance and/or State Disability Assistance.

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 application for Medical Assistance, retroactive Medical Assistance, and State Disability Assistance benefits.

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

/s/_____

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 8, 2013


Date Mailed: March 11, 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.

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