

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-75073
Issue No.: 2009;4031
Case No.: [REDACTED]
Hearing Date: December 13, 2012
County: Kent

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, a telephone hearing was commenced on December 13, 2012, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included Assistant Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team (SHRT) for consideration. On February 22, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA), Retro-MA and State Disability Assistance (SDA)?

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 April 9, 2012, Claimant filed an application for MA/Retro-MA and SDA benefits alleging disability.
- (2) On August 15, 2012, the Medical Review Team (MRT) denied Claimant's application for MA-P/Retro-MA indicating Claimant was capable of

- performing other work. SDA was denied due to lack of duration. (Dept Ex. A, pp 5-6).
- (3) On August 22, 2012, the department caseworker sent Claimant notice that his application was denied.
 - (4) On August 29, 2012, Claimant filed a request for a hearing to contest the department's negative action.
 - (5) On October 23, 2012, the State Hearing Review Team (SHRT) upheld the denial of Medicaid finding that Claimant was capable of performing simple and repetitive tasks. SDA was denied because the nature and severity of Claimant's impairments would not preclude work activity at the above stated level for 90 days. (Depart Ex. B, pp 1-2).
 - (6) Claimant has a history of learning disabilities, Asperger's disorder, and a personality disorder.
 - (7) Claimant is a 22 year old man whose birthday is [REDACTED] Claimant is 5'11" tall and weighs 228 lbs. Claimant completed high school.
 - (8) Claimant had been denied Social Security disability benefits at the time of the hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), 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 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 Mich Admin Code, Rules 400.3151-400.3180. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3),

persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

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(a). The person claiming a physical or mental disability has the burden to establish it 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with

vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that he has not worked since December, 2010. Therefore, he is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to learning disabilities, Asperger's disorder, and a personality disorder.

On July 5, 2011, Claimant followed up with his psychiatrist for a medication review. Claimant stated he was doing a lot better. He stated that he is less irritable and less stressed since the change from Wellbutrin to Celexa. He stated he was sleeping well. He was alert and oriented times four. He had poor eye contact and was leaning back in his chair. He was cooperative. His speech was of decreased amount and slow. His mood was a lot better. His affect appeared somewhat distracted but euthymic. His thought processes were linear. His insight and judgment were fair at best to poor overall. Cognition was average.

On July 21, 2011, Claimant underwent a psychological evaluation on behalf of the [REDACTED] [REDACTED] [REDACTED]. Claimant demonstrated good reality contact. His speech was spontaneous and organized. There was no evidence of hallucinations, delusions, or obsessive thought. He had a history of suicidal thinking and had made more than one suicide attempt. He also tried to slit his own throat but someone stopped him. He has also hit inanimate objects. He appeared mildly anxious during the interview. He also acknowledged some feelings of depression and anger. He was oriented in all spheres. His file contained an Adult Function Report dated April 20, 2011. The conditions limiting his ability to work were identified as "it's kind of hard to focus and find motivation." There were problems noted with several physical functions and also with memory and paying attention. The file also contained a clinical evaluation and one progress note from [REDACTED] [REDACTED] services. In the evaluation of April 15, 2011, Claimant was diagnosed with a major depressive disorder and attention deficit hyperactivity disorder. There was also a psychiatric note in the file from January, 2011, in which Claimant was diagnosed with Asperger's disorder. Diagnosis: Axis I: Depressive Disorder; Attention Deficit Hyperactivity Disorder; Alcohol Dependence, sustained partial remission; Learning Disorder; Axis II: Deferred; Axis III: Seizure activity? Asthma; Bronchitis; Allergies? Axis IV: Economic problems; Axis V: GAF=50.

Prognosis was fair. The examining psychologist opined that Claimant should continue to receive his counseling services through [REDACTED] and continue to take his prescribed medications. The psychologist also found that Claimant would not be able to do complex tasks, but should be capable of some things that are commensurate with his knowledge and abilities. That would be jobs that do not require supervision of others, and tasks that are fairly straightforward. And Claimant, by his own admission, would be unable to manage his benefit funds.

On July 22, 2011, Claimant presented at [REDACTED] seeking crisis mental health service. He was seeing a psychiatrist and his next appointment was not until September. Claimant was oriented to all four spheres. He reported having passing suicidal ideation, but last night out of anger he wanted to cut himself, but did not act on it as his girlfriend talked to him. He reported having thoughts about hurting two specific people, but he stated that he will not act on it because he could never hurt another human being, unless they hurt him first. He reported his depression symptoms escalated because he is not sleeping well and he is getting agitated easily. He believes that this is due to not taking his Celexa medication. He reported having difficulty focusing and experienced lack of motivation. He can be impulsive and judgmental. He was cooperative and willing to follow the psychologist's recommendations to see his psychiatrist that week, instead of waiting until September. Diagnosis: Axis I: Pervasive Developmental Disorder; Depressive Disorder; Axis III: Obesity, Asthma; Axis IV: Problems with Primary Support Group; Axis V: GAF=50.

On August 2, 2011, Claimant met with his psychiatrist for a medication review. His psychiatrist wrote that since Claimant's last visit, he had gone to the emergency room looking for help. He stated that he had grabbed a knife and wanted to cut himself, and it was triggered by an argument he had with his long-distance girlfriend over the phone. He ultimately admitted that he would "never hurt another human being or himself and that he was able to be redirected." He admitted at the time that he had not been taking his Celexa and that his depressive symptoms had been worsening. He had since started his Celexa and has been on it now for 3-4 days. During the review, he reports that his mood was "calm" and that he had "a better outlook on things" now. He stated he was sleeping okay, but that he was napping a lot during the day. He was taking Celexa in the morning. He does not drive, so it is not interfering with safety issues regarding driving. He adamantly denied suicidal and homicidal ideation. He denied any irritability or fighting with his mom, and overall stated he is doing well. He stated he was drinking alcohol about twice a week. He was alert and oriented in all four spheres. He had waxing and waning grogginess. When his girlfriend called, per the nurse's report, he was no longer groggy and very alert, but then he went back to grogginess after he hung up the phone with her. His mood was calm. Affect appeared euthymic. Thought processes were linear. Insight and judgment were limited. Cognition was average. Medications were left the same, Abilify at bedtime, Celexa daily and Trazodone for insomnia. Diagnosis: Axis I: Asperger's Disorder; Depressive Disorder; Axis III: Obesity, nose bleeds, and asthma. Axis V: GAF=50.

On October 5, 2011, Claimant underwent a psychological evaluation with Learning Disability screening on behalf of [REDACTED] [REDACTED] [REDACTED]. Initially, he did little in the way of speaking. He did speak in a very low volume. His energy level was very low and he appeared lethargic. He also had little eye contact during the interview. His affect was seen as flat. He appeared very tired. There was little in the way of expression or emotion evident during the evaluation session. On the WAIS-IV, Claimant earned a full scale IQ score of 78. This placed him in the upper limits of the borderline range of intellectual functioning and at approximately the 7th percentile in the population when compared with individuals in his age range. He exhibited significant intellectual limitations in several areas of measurement. His ability for arithmetic computation was in the low average range, as was his ability for information retention and retrieval. His ability for visual abstract reasoning was in the below average range of functioning. Severe limitation was present regarding his ability for immediate recall of auditory cues and auditory processing. Additionally, associative learning and symbol translation skills were severely limited. His vocabulary skills related to reading comprehension are deficient. From a strictly intellectual functioning standpoint, the examining psychologist opined that Claimant does appear to have the ability to be successful in limited types of employment. However, speed will certainly be a problem and he will have difficulty working under stress. Additionally, emotional dysfunction will also interfere with his ability for being successful in competitive employment tasks. The examining psychologist opined that true ADHD or ADD functioning was not present. Rather, Claimant's low self-esteem and low energy level related to depression would interfere with his capability for focusing and concentration. Indications were that when Claimant does not have to deal with pressure of completion time in a work setting, he should be able to handle the simplest types of employment. Claimant possesses the intellectual abilities and achievement skills sufficient enough to be successful in a variety of on-the-job training/direct placement jobs. However, his emotional dysfunctions will interfere with his ability to be successful in both accessing employment, as well as maintaining it. He has had some counseling in the past, but indicated that he did not necessarily complete this treatment. While Asperger's Disorder had been diagnosed on a rule out basis, it was the examining psychologist's opinion that Claimant does not experience enough dynamics to be consistent with Asperger's Disorder. Rather, avoidant, as well as dependent and borderline, personality disorder dynamics were considered to be present. Regarding the vocational plan, Claimant would be considered marginally employable at this point, regarding his emotional dysfunctions. Diagnosis: Axis I: Dysthymic Disorder; Generalized Anxiety Disorder; Axis II: Borderline Intellectual Functioning, Dependent Personality Disorder, Avoidant Personality Disorder, and Borderline Personality Disorder.

On May 16, 2012, Claimant completed the intake process at [REDACTED]. Claimant's primary concern was his inability to get job assistance from the [REDACTED] until he obtained mental health treatment. Claimant's goal was to obtain employment through job assistance and temporary job services. In June, 2012, Claimant continued to work on assessment focusing on Claimant's anxiety and depression. Claimant was not presenting with behaviors related to anxiety and depression. His primary issue was being dependent on his family and needing to

develop independence. He had begun to look for work and was placing job applications on a weekly basis. In August, 2012, Claimant was introduced to the [REDACTED] [REDACTED]. Claimant was engaged and participated. He stated that drinking had made him lazy which had made it difficult for him to fulfill responsibilities and family members had expressed concerns about his use. He also shared that he noticed that when he drinks, his depression can increase. He stated that he recognizes he has a problem, but he is not sure if he wants to give up using because it helps mellow him out. In September, 2012, Claimant shared how he almost got into a fight on one occasion while at a concert while drunk. He indicated that if he had not been drinking, he would not have responded with a threat. He voiced that he experiences anger, anxiety, and tension when stressed. Event stressors and conflicts with relationships were current stressors. He acknowledged that his alcohol use had increased stress in his relationships and he often handled stress by fleeing or avoiding.

On June 11, 2012, Claimant participated in a psychological evaluation on behalf of the department. Claimant indicated that he had applied before and received disability benefits because he was attending [REDACTED] [REDACTED] [REDACTED]. However, those benefits ended when he stopped working. Claimant stated that he had applied because he was told he was not work ready based on his personality disorders. Claimant reported he was not taking any medications at this time. Claimant denied being involved in special education classes. He also denied any substance abuse history. He stated his only medical history was allergies. He had no history of hospitalizations for medical or mental health reasons. Claimant presented with good reality contact and a fairly positive self-esteem. His psychomotor activity was somewhat slowed. His expressed thoughts were consistently logical, coherent, and goal-directed. He denied experiencing symptoms associated with Bipolar, Mania, or Panic Disorders. Other than saying that he can be really sad, he was also unable to identify any other symptoms associated with depression. The examining psychologist opined that Claimant indicated he had been diagnosed with avoidant and borderline personality disorders in the past. Results of the MCMI-III both have clinical elevations associated with both diagnoses, indicating there is a strong possibility of these being accurate. Beyond that, an Axis I Mood Disorder is also likely. However, it was difficult to decipher which one due to lack of information and clinical and experienced description by Claimant. Regardless, results of the MCMI-III, as well as Claimant's description within the interview would suggest that further mental health attention appears warranted. Diagnosis: Axis I: Mood Disorder; Axis II: Borderline Personality Disorder; Avoidant Personality Disorder; Axis III: None reported; Axis IV: Current psychosocial environmental stressors; limited social support, financial strain, unemployment; Axis V: GAF=65. The examining psychologist opined that prognosis is guarded at this time. There is indication of a over-reporting on the MCMI-III. It is difficult to decipher specifically what Claimant's clinical experience is. There was indication of potential avoidant and borderline personality diagnoses. Both of these diagnoses may benefit from mental health therapy. The psychologist also found Claimant capable of managing his own funds.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented some limited medical evidence establishing that he does have

some physical limitations on his ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged physical and mental disabling impairments due to learning disabilities, Asperger's disorder, and a personality disorder.

Listing 3.00 (respiratory system) and Listing 12.00 (mental disorders) were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled, or not disabled, at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). 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 are not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s) and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. 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 additional 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 (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiety, 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 (e.g., 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.*

Claimant has a history of less than gainful employment. As such, there is no past work for Claimant to perform, nor are there past work skills to transfer to other work occupations. Accordingly, Step 5 of the sequential analysis is required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v).

At the time of hearing, Claimant was 22 years old and was, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school education. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6,

1984). 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). The age for younger individuals (under 50) generally will not seriously affect the ability to adjust to other work. 20 CFR 416.963(c).

Where an individual has an impairment or combination of impairments that results in both strength limitations and non-exertional limitations, the rules in Subpart P are considered in determining whether a finding of disabled may be possible based on the strength limitations alone, and if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience, provide the framework for consideration of how much an individual's work capability is further diminished in terms of any type of jobs that would contradict the non-limitations. Full consideration must be given to all relevant facts of a case in accordance with the definitions of each factor to provide adjudicative weight for each factor.

In this case, the evidence reveals that Claimant suffers from learning disabilities, Asperger's disorder, and a personality disorder. The objective medical evidence is contradictory. An Adult Function Report dated 4/20/11, indicated the conditions limiting Claimant's ability to work were identified as focus and motivation. Then on 7/21/11, during a psychological evaluation, Claimant was found unable to do complex tasks, but able to do some of the things commensurate with his knowledge and abilities. Claimant was found capable of jobs that do not require supervision of others, and tasks that are fairly straight forward. Then on 10/5/11 after a psychological evaluation with learning disability screening, from a strictly intellectual functioning standpoint, Claimant appeared to have the ability to be successful in limited types of employment, albeit, speed would certainly be a problem, in addition to working under stress. However, the psychologist opined that Claimant's emotional dysfunction would interfere with his ability for being successful in competitive employment tasks and it was his low self-esteem and low energy level related to his depression that would interfere with his capability for focusing and concentrating. The psychologist added that Claimant possesses the intellectual abilities and achievement skills sufficient enough to be successful in a variety of on-the-job training/placement jobs. But again, the psychologist opined that Claimant's emotional dysfunctions would interfere with his ability to be successful in both accessing employment, as well as maintaining it.

Then on 5/16/12, Claimant presented to Arbor Circle concerned with his inability to obtain job assistance from Michigan Rehabilitative Services until he obtained mental health treatment. Claimant's goal was to obtain employment through job assistance and temporary job services. On 6/6/12, Claimant was not presenting with behaviors related to anxiety and depression. His primary issue was being dependent on his family and needing to develop independence. He had begun to look for work and was placing

job applications on a weekly basis. Then on 6/11/12, Claimant participated in a psychological evaluation by the department. Claimant was found to have a fairly positive self-esteem.

In light of the foregoing turn around in Claimant's motivation and his lack of symptoms related to anxiety and depression, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis which includes the ability to meet the physical and mental demands required to perform at least light work as defined in 20 CFR 416.967(b). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.27, it is found that Claimant is not disabled for purposes of the MA-P program at Step 5.

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 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, Claimant does not meet the disability criteria for State Disability Assistance benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Claimant not disabled for purposes of the MA-P, Retro-MA and SDA benefit programs. Accordingly, it is ORDERED:

The Department's determination is **AFFIRMED**.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 14, 2013

Date Mailed: March 15, 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

VLA/las

cc:

