

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-27363
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 14, 2013
County: Oakland (63-03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, a telephone hearing was conducted from Lansing, Michigan, on May 14, 2013. Claimant [REDACTED] appeared and testified. [REDACTED].

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional records. The records were received, reviewed, and forwarded to the State Hearing Review Team (SHRT) for consideration. On July 23, 2013, this office received the SHRT determination which found Claimant not disabled.

This matter was re-assigned to the undersigned Administrative Law Judge for a final determination of Claimant's disability.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA-P)?

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 October 26, 2012, Claimant submitted an application for public assistance seeking MA-P benefits.
2. On January 15, 2013, the Medical Review Team (MRT) found Claimant not disabled. (Exhibit A, pp. 36-37)
3. On January 18, 2013, the Department notified Claimant of the MRT determination. (Exhibit A, pp. 6-8)
4. On January 24, 2013, the Department received Claimant's timely written request for hearing. (Exhibit A, pp. 9-10)
5. On April 1, 2013, SHRT found Claimant not disabled. (Exhibit A, pp 70-71.)
6. At the May 14, 2013, hearing, Claimant submitted new medical evidence (Exhibit 1, pp 1-74).
7. On July 19, 2013, SHRT concluded, after reviewing the new medical evidence, that Claimant was not disabled.
8. Claimant alleged physical disabling impairments due to joint pain in the knees, back and shoulder.
9. Claimant alleged mental disabling impairments due to depression.
10. At the time of hearing, Claimant was 50 years old with a [REDACTED] and was 5 feet 9 inches in height.
11. Claimant is a high school graduate with some college and an employment history of work as a lead day care teacher and customer service representative.
12. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

The Medical Assistance program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department of Human Services, formerly known as the Family Independence Agency, pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Bridges Reference Tables (RFT).

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).

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 (1) an individual's current work activity; (2) the severity of the impairment(s); (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1; (4) residual functional capacity to determine whether an individual can perform past relevant work; and (5) residual functional capacity along with vocational factors (i.e., 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)

In general, the individual has the responsibility to prove disability. 20 CFR 416.912(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 416.913. 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, are 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).

Step One

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, therefore, is not ineligible for disability benefits under Step 1. Therefore, Step 2 is considered.

Step Two

The severity of Claimant's alleged impairment(s) is considered under Step 2. Claimant 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 416.920(a)(4)(ii); 20 CFR 416.920(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 416.920(a)(4)(ii); 20 CFR 416.920(c). 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). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(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.

In addition to the above, when evaluating mental impairments, a special technique is utilized. 20 CFR 416.920a(a). First, an individual's pertinent symptoms, signs, and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five-point scale: none, mild, moderate, marked,

and extreme. 20 CFR 416.920a(c)(4). A four-point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

After the degree of functional limitation is determined, the severity of the mental impairment is determined. 20 CFR 416.920a(d). If severe, a determination of whether the impairment meets or is the equivalent of a listed mental disorder is made. 20 CFR 416.920a(d)(2). If the severe mental impairment does not meet (or equal) a listed impairment, an individual's residual functional capacity is assessed. 20 CFR 416.920a(d)(3).

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 depression and joint pain in the shoulders, knees and back.

Claimant's medical records include evidence of ongoing medical treatment from [REDACTED] for degenerative joint disease of the knees and history of depression. Claimant's condition was identified as deteriorating in a [REDACTED] medical evaluation. Claimant submitted to intake for psychiatric services on [REDACTED] and the file includes medication review notes for [REDACTED].

A [REDACTED], psychological report, completed by a limited licensed psychologist, diagnosed Claimant with recurrent severe depression, moderate to severe, as evidenced by her crying spells, suicidal thoughts, inability to sleep well and isolation, and possibly bipolar disorder based on her mood swings, and concluded that she was unable to do work-related activity in her present mental state. Her Global Assessment Functioning (GAF) was placed between 40 and 45. In a [REDACTED] Psychiatric Examination Report, DHS-49D, Claimant was diagnosed with major depressive disorder, recurrent, with a GAF of 55. The Mental Residual Functional Capacity Assessment prepared on [REDACTED] concluded that Claimant's functional abilities were not significantly limited or were moderately limited by her mental condition. The [REDACTED] psychiatric report and the [REDACTED] psychiatric evaluation continued Claimant's diagnosis of major depressive disorder and listed a GAF score of 55. The [REDACTED] report also indicated that Claimant had a blunt affect and auditory and visual hallucinations. In a letter dated [REDACTED]

Claimant's treating psychiatrist identified Claimant's GAF score at 55 and recommended that, based on her diagnosis, Claimant not participate in the work force.

With respect to Claimant's physical condition, in a [REDACTED], consultative physical examination, Claimant was diagnosed with arthritis in both shoulders, left more than right, and both knees and back, resulting in mild limitation of physical activity. The exam found that flexion of the lumbar spine was to 70 degrees and there was mild tenderness on palpation of the lower back but that other movements were within normal limits. Range of motion of the right shoulder was within normal limits while the left shoulder showed mild limitation of abduction. There was tenderness and swelling on palpation of both knees, with cracking sounds, but range of motion of both knees was within normal limits. There was no restriction on current abilities. Muscle strength was marked 5/5 in all extremities. A [REDACTED] review of the x-ray of Claimant's knees revealed degenerative changes of the knees bilaterally. While there was noted evidence of pointed tibial spines and posterior patellar spurring, there was no joint space narrowing. Degenerative changes were noted.

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 medical evidence establishing that she does have some mental limitations on her ability to perform basic work activities and presented medical evidence concerning physical limitations on her ability to perform basic work activities. The degree of functional limitation on Claimant's activities, social function, concentration, persistence, or pace based on the evidence presented is moderate. The degree of functional limitation in the fourth area (episodes of decompensation) is at most a 1. Ultimately, the medical evidence presented establishes that Claimant has an impairment and, in consideration of the *de minimis* standard, Claimant's eligibility at Step 3 will be addressed.

Step Three

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The evidence shows diagnosis of, and treatment for, (1) arthritis in the shoulder, knees and back and (2) severe depression.

Listing 1.00 (musculoskeletal system) and Listing 12.00 (mental disorders) were considered in light of the objective medical evidence.

Listing 1.02 defines major dysfunction of a joint(s) as characterized by gross anatomical deformity and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s) and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s) involving either one major peripheral weight-bearing joint (i.e., hip, knee, or ankle) resulting in an inability to ambulate effectively or one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand) resulting in an inability to perform fine and gross movements effectively.

Listing 1.04, describing disorders of the spine, requires a compromise of a nerve root or spinal cord with (i) evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss accompanied by sensory or reflex loss, and, if there is involvement of the lower back, positive straight-leg raising test, or (ii) spinal arachnoiditis, or (iii) lumbar spinal stenosis resulting in pseudoclaudication.

In this case, the examining physician concluded in his [REDACTED] physical examination that Claimant's flexion of the lumbar spine was to 70 degrees and there was mild tenderness on palpation of the lower back but other movements were within normal limits. The range of motion of the right shoulder was within normal limits, but the left shoulder showed mild limitation of abduction and forward elevation is done to 110 degrees. Muscle strength was 5/5 in all extremities. No limitations on current abilities were noted. The radiologist who reviewed an x-ray of Claimant's knees on [REDACTED], found degenerative changes of the knees bilaterally but no joint space narrowing. This medical evidence fails to establish that Claimant is unable to ambulate effectively or unable to perform fine and gross movements effectively or that she experiences a compromise of nerve root or spinal cord. Therefore, Claimant does not meet any of the 1.00 listings.

Listing 12.00 encompasses adult mental disorders. The evaluation of disability on the basis of mental disorders requires documentation of a medically determinable impairment(s) and consideration of the degree in which the impairment limits the individual's ability to work, and whether these limitations have lasted or are expected to last for a continuous period of at least 12 months. 12.00A. The existence of a medically determinable impairment(s) of the required duration must be established through medical evidence consisting of symptoms, signs, and laboratory findings, to include psychological test findings. 12.00B. 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). 12.00D.

Listing 12.04, which defines affective disorders, was considered in evaluating Claimant's mental condition. Affective disorders are characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Generally, affective disorders involve either depression or elation. The required level of severity for these disorders is met when the requirements of both A and B are satisfied, or when the requirements in C are satisfied.

- A. Medically documented persistence, either continuous or intermittent, of one of the following:
 - 1. Depressive syndrome characterized by at least four of the following:

- a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking; or
2. Manic syndrome characterized by at least three of the following:
- a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractability; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions, or paranoid thinking; or
3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes)

AND

- B. Resulting in at least two of the following:
1. Marked restriction on activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration;

OR

- C. Medically documented history of chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:
1. Repeated episodes of decompensation, each of extended duration; or
 2. A residual disease process that has resulted in such marginal adjustment that even minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or

3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

In this case, the record confirms the diagnoses of severe depression with a GAF ranging between 40 and 55. However, there was no evidence of any marked restriction in any of the four functional areas identified in the [REDACTED], Mental Residual Functional Capacity Assessment. Further, the evidence did not support a finding of repeated episodes of decompensation, residual disease process or inability to function outside a highly supportive living arrangement. As such, it is found that Claimant's impairments do not meet the intent and severity requirement of a listed impairment within 12.00.

Because Claimant does not meet any of the listings, she cannot be found disabled, or not disabled, at Step 3. The analysis proceeds to consideration of Claimant's residual functional capacity, which is required in assessing Steps 4 and 5.

Residual Functional Capacity

If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity (RFC) is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s). 20 CFR 416.945(a)(1). The total limiting effects of all the impairments, to include those that are not severe, are considered. 20 CFR 416.945(e). An individual's RFC 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).

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 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 (exertional requirements, i.e., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations or restrictions 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 this case, Claimant suffers from arthritis in the shoulder, knees and back and severe depression. Claimant testified that she was unable to use her left hand in lifting and uses her right hand for light lifting. She experiences physical discomfort, with chronic pain in her lower back and her knees swelling and popping when she walks. She also testified that she is anxious and quick-tempered. The objective findings in the [REDACTED] mental residual functional capacity assessment find Claimant not markedly limited in any of the four categories listed. However, despite ongoing mental health treatment, Claimant's treating psychiatrist recommended in a [REDACTED] letter that Claimant not participate in the work force. She also has some physical limitations. Ultimately, after review of the entire record to include Claimant's testimony, it is found based on Claimant's mental and physical conditions that Claimant maintains the physical and mental capacity to perform sedentary work as defined by 20 CFR 416.967(a).

Step Four

The fourth step in analyzing a disability claim requires an assessment of Claimant'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).

Claimant's prior work history consists of work as a lead teacher at a day care facility (semi-skilled, light/medium), and a customer service representative (unskilled, light). If the impairment or combination of impairments does not limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In light of the entire record and Claimant's RFC (see above), it is found that Claimant is unable to perform past relevant work. Accordingly, the Claimant cannot be found disabled, or not disabled, at Step 4 and the assessment continues to Step 5.

Step 5

In Step 5, an assessment of the claimant's RFC and age, education, and work experience are considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, the Claimant was 50 years old and, thus, considered to be closely approaching advanced age for MA-P purposes. Claimant is a high school graduate with some college.

Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the claimant to the Department to present proof that the claimant has the RFC 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).

In this case, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical and mental demands required to perform sedentary work as defined in 20 CFR 416.967(a). However, her physical limitations, coupled with her severe depression, which includes auditory and visual hallucinations that have continued despite medical treatment, render her skills not transferable. Accordingly, after review of the entire record and in consideration of Claimant's age, education, work experience, RFC, and using the Medical-Vocational Guidelines (20 CFR 404, Subpart P, Appendix II) as a guide, specifically Rule 201.14, Claimant is found disabled at Step 5.


DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant disabled for purposes of the MA-P benefit program.

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY:

1. Process Claimant's October 26, 2012, MA application to determine if all the other non-medical criteria are satisfied and notify Claimant of its determination;
2. Supplement Claimant for lost benefits, if any, that Claimant was entitled to receive if otherwise eligible and qualified;
3. Review Claimant's continued eligibility in November 2014.


Alice C. Elkin
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: October 9, 2013

Date Mailed: October 10, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

2013-27363/ACE

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

cc:

