

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-37425
Issue No.: 2009; 4031
Case No.: [REDACTED]
Hearing Date: August 6, 2013
County: Genesee-02

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 August 6, 2013, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Human Services (Department) included 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 October 10, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Did the Department of Human Services (Department) properly deny Claimant's Medical Assistance (MA), Retro-MA and State Disability Assistance (SDA) application?

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 November 20, 2012, Claimant filed an application for MA, Retro-MA and SDA benefits alleging disability.
- (2) On February 11, 2013, the Medical Review Team (MRT) denied Claimant's application for MA-P and Retro-MA indicating that Claimant was capable of other work. SDA was denied due to lack of duration. (Depart Ex. A, pp 8-9).

- (3) On March 11, 2013, the department sent out notice to Claimant that his application for Medicaid had been denied.
- (4) On March 20, 2013, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On June 3, 2013, the State Hearing Review Team (SHRT) upheld the denial of MA-P and Retro-MA benefits indicating the medical evidence of record indicates Claimant retains the capacity for light work. SDA was denied for lack of duration. (Depart Ex. B, pp 1-2).
- (6) Claimant has a history of mild lumbar spinal canal stenosis, lumbar radiculopathy, degenerative disc disease, mild to moderate cervical degenerative spondylosis, knee and shoulder problems.
- (7) Claimant is a 45 year old man whose birthday is [REDACTED] Claimant is 5'8" tall and weighs 274 lbs. Claimant completed a high school equivalent education. He last worked in July, 2012.
- (8) Claimant was appealing the denial of 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 manual s. 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 July, 2012. 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 back, neck, knee and shoulder problems.

On [REDACTED] the lumbar spine MRI revealed mild spinal canal stenosis at the L4-L5 level secondary to a broad based central disc bulge, bilateral facet hypertrophy and bilateral posterior ligamentum flavum hypertrophy. There is mild narrowing of the left and right neuroforamina at this level secondary to these changes.

During physical therapy on [REDACTED] Claimant received mechanical pelvic traction, therapeutic exercises, therapeutic activities and home exercises. Claimant did not make gains in range of motion at this time due to increased pain. Claimant did make gains in strength hip flexion. Claimant has a maximum pain level of 8-9/10 and 5/10 at best when taking pain medication. Claimant has maximum difficulty bending/stooping, taking extra time to don/doff socks/shoes and sitting to complete the tasks. He has maximum difficulty standing for prolonged periods of time to cook/prepare meals, having to sit and take a break due to increased muscle spasms and shooting pain across belt line. However, he does not believe he can stand about 30 minutes on a good day. He has maximum difficulty walking due to decreased tolerance. His posture has improved. He would benefit from continuation of skilled therapy (TE/TA, gait) to improve standing tolerance, bending and stooping, and ambulation for community distances to grocery shop or walk to the mailbox.

On [REDACTED], the lumbosacral spine x-rays showed early degenerative changes of the lumbar spine with no evidence of dynamic instability on flexion and extension projections. The x-rays correlated to the MRI of the lumbar spine dated 8/31/12.

On [REDACTED], a spot bone scan of the lumbar spine and pelvis was normal.

On [REDACTED] the physical therapist indicated Claimant received 19 visits since his initial evaluation on [REDACTED]. Claimant's treatment sessions consisted of pelvic traction, manual therapy, therapeutic exercises, therapeutic activities and home exercises. He has made no gains in functional deficits. No gains have been made with range of motion of lumbar spine and he has had a decrease in strength due to pain into lumbar flex and extension. He will experience sharp pains into right low back and buttock at times. He has regressed to using the Amigo in stores at this time due to muscles "drawing up in the corner of my right side of my back." Claimant is being discharged at this time due to no progress being made since his last progress note dated [REDACTED].

On [REDACTED], a medical examination report was completed by Claimant's neurologist diagnosing Claimant with low back pain and lumbar radiculopathy. The neurologist opined that Claimant's condition is improving. The neurologist indicated

Claimant can meet his own needs in the home but needs assistance with cooking, cleaning, shopping, dressing and driving. The neurologist also completed a medical needs report indicating Claimant needs someone to drive him to appointments on the days he receives epidural injections. Claimant also was noted to need assistance with dressing, mobility, meal preparation, shopping, laundry and housework.

On [REDACTED] Claimant followed up with his orthopedic surgeon regarding his knee arthroscopy. Claimant had been cleared to return to work with regards to his knee on [REDACTED]. Claimant was still complaining that his back was bothering him and that he was experiencing some medial sided knee pain. On examination, there is some mild tenderness to direct medial joint line palpation but other than that he ranges fully. There was no effusion, the calf was soft and there was no Baker's cyst present. The arthroscopic findings from the surgery were re-reviewed. He was noted to have chondromalacial changes present underneath the patella. A debridement of a small degenerative medial and lateral meniscal tear was performed. He was found to have minimal articular surface damage in the weight bearing portions of his knee. The surgeon opined that Claimant has reached his maximum medical improvement and currently there is no orthopedic intervention regarding his knee needed.

On [REDACTED], Claimant's neurologist found Claimant has a central disc herniation at L4-L5 secondary to a work-related injury. Claimant has done moderately well with epidural steroid injections. Unfortunately, he is still unable to do any significant physical activities secondary to his pain complaints. His job is a physical job that requires lifting, bending, and exerting with his low back. At this time, we will extend him off work for another additional two months.

On [REDACTED], Claimant's neurologist indicated that Claimant is unable to return to work until 4/27/13.

On [REDACTED], Claimant had an independent medical evaluation to evaluate his back and his right knee. Currently, regarding his low back, he has pain on a daily basis, rating this as 7 or 8, worse on the right than the left with numbness down the sides and front of both thighs. He has tingling of his fourth and fifth toes bilaterally. His symptoms are relieved by changing position and are aggravated by bending or ascending stairs. Because of his back, he does not do housework or yard work. He cannot lift a case of pop or do overhead work. He can lift a gallon of milk. Regarding his knee, he states that this is essentially better. He has some pain towards the end of the day and has a sensation of locking at the end of the day. He denies any problem with his back or knee prior to the incident. He also relates that he may have dislocated his right shoulder recently doing some home exercises. He can drive minimally. He can shower and dress with the help of his wife. He can read, watch television and use a computer for short times until he needs to change position. Range of motion of right knee is 0 to 120 degrees. There is positive patellar grind. The left knee range of motion is 0 to 130 degrees. Exam is negative. Waddell's signs are negative. He moves about the room fairly easily. Tandem gait is satisfactory. There were no canes, crutches, or appliances. Heel walking is decreased on the right. Toe walking is satisfactory. Front bending is 47 degrees, back bending 20 degrees, side bending 15 degrees to right and left. Seated straight leg raising is 90 degrees. Patellar and Achilles reflexes are

equivocal symmetrically. Extensor strength is satisfactory. Neurovascular status of feet is satisfactory. Supine straight leg raising is 40 degrees on the right with pain in right leg posteriorly down the buttock. Supine straight leg raising is 50 degrees on the left. Fabere-Patrick's is negative. Extensor strength is satisfactory. He has pain with palpable tenderness in lumbosacral area. Gluteal tone is good and equal. Achilles reflex was equivocal. Regarding restrictions, he cannot do repetitive bending, stooping, twisting or kneeling and needs to change positions frequently. He cannot drive a long-haul semi truck. He can lift floor to waist approximately 10 to 15 pounds.

On [REDACTED] an MRI of the lumbar spine revealed segmental spinal stenosis, bilateral recess and bilateral neural foramina narrowing at L4-L5 level from circumferential disc bulge, facet degenerative changes and ligamentum flavum thickening. There is a small disc bulge at L3-L4 level. There are also facet degenerative changes at L1-L2, L2-L3, L3-L4, L4-L5 and L5-S1 levels.

On [REDACTED] an MRI of the right shoulder showed a partial, near-complete tear of the tendon of the long head of the biceps. There is a minor partial tear of the supraspinatus at its insertion with underlying tendinosis or intrasubstance tears in the supraspinatus, subscapularis and, to a lesser degree, the infraspinatus. There is early fatty atrophy in the teres minor. There is moderate hypertrophic degenerative change in the acromioclavicular joint. There are signal changes in the anterior labrum, likely degenerative in etiology. There is no displaced labral tear on examination. An MRI of the cervical spine revealed mild to moderate cervical degenerative spondylosis with a small right posterolateral C6-C7 disc protrusion slightly effacing the ventral thecal sac. There is an uncovertebral joint spur and disc bulge at several levels leading to moderate left-side foraminal narrowing at C4-C5 and C5-C6 and left-sided foraminal narrowing at C7-T1 and T1-T2. There is no intrinsic cord signal abnormality. The MRI of the thoracic spine showed a small left posterolateral T1-T2 disc protrusion with mild left foraminal narrowing. There is also mild degenerative spondylosis of the thoracic spine at multiple other levels with mild dextroconvex lateral curvature at T4-T7. There is no significant central canal compromise or intrinsic cord signal abnormality and no evidence of fracture or dislocation.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the 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 disabling impairments due to back, neck, knee and shoulder problems.

Listing 1.00 (musculoskeletal system) was considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) do 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, 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 (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's prior work history consists of work as a truck driver. In light of Claimant's testimony, and in consideration of the Occupational Code, Claimant's prior work is classified as semi-skilled work.

Claimant testified that he is able to walk short distances and can lift/carry approximately 5 pounds. The objective medical evidence notes Claimant cannot do repetitive bending, stooping, twisting or kneeling and needs to change positions frequently. The evidence showed that Claimant does have spinal stenosis and degenerative disc disease. However, there was no objective medical evidence presented that this resulted in compromise of a nerve root or the spinal cord. Claimant also had negative straight-leg raising tests and was able to ambulate effectively, as defined by 1.00B2b.

If the impairment or combination of impairments does not limit an individual's 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 consideration of the Claimant's testimony, medical records, and current limitations, Claimant cannot be found able to return to past relevant work. 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 45 years old and was, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school equivalent education and was trained as a truck driver. 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 Claimant has the residual capacity to perform 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.

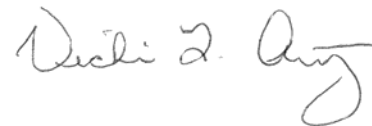
In this case, the evidence reveals that Claimant suffers from back, neck, knee and shoulder problems. The objective medical evidence notes Claimant cannot do repetitive bending, stooping, twisting or kneeling and needs to change positions frequently. In light of the foregoing, it is found that Claimant 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 sedentary work as defined in 20 CFR 416.967(a). After review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.21, it is found that Claimant is not disabled for purposes of the MA-P/Retro-MA and SDA programs at Step 5.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds 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**.



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

Date Signed: October 22, 2013
Date Mailed: October 22, 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:

