

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-10827  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: June 24, 2013  
County: Wayne DHS (18)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on June 24, 2013, from Taylor, Michigan. Participants included the above-named claimant. [REDACTED] testified and appeared as Claimant's authorized representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) on the basis that Claimant is not a disabled individual.

**FINDINGS OF FACT**

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

1. On [REDACTED]/12, Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED]/2012.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED]/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-4a).

4. On [REDACTED]/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibit 3) informing Claimant of the denial.
5. On [REDACTED]/12, Claimant's AHR requested a hearing disputing the denial of MA benefits (see Exhibit 2 and 2A).
6. On [REDACTED]/12, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.14 (see Exhibits 19-20).
7. On [REDACTED]/13, an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A2) at the hearing.
9. On [REDACTED]/13, an Interim Order Extending the Record was mailed allowing each party 60 days from the date of hearing to submit the following: DHS to submit Social Security Administration (SSA) application information for Claimant; Claimant to submit a consultative examination report and/or SSA application information.
10. As of [REDACTED]/13, neither DHS nor Claimant submitted additional documentation.
11. On [REDACTED]/13, the updated hearing packet was submitted to SHRT.
12. On 1 [REDACTED]/13, SHRT determined that Claimant was not disabled, in part, by determining that Claimant retains the capacity to perform past relevant employment.
13. As of the date of the administrative hearing, Claimant was a [REDACTED]-year-old female with a height of 5'3" and weight of 145 pounds.
14. As of the date of the administrative hearing, Claimant was a half pack per day tobacco smoker who drank alcohol 2-3 times per week.
15. Claimant's highest education year completed was 11<sup>th</sup> grade.
16. As of the date of the administrative hearing, Claimant had no medical coverage.
17. Claimant alleged disability based on impairments and issues including dizziness, left-side numbness and heart problems.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program

pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant noted special arrangements in order to participate in the hearing. Claimant testified that she misunderstood the question about special arrangements and stated that she requires no arrangements for her hearing participation.

The Medicaid program is comprised of several sub-programs, which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies:

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).  
BEM 260 (7/2012) pp. 1-2

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

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 (7/2012), p. 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and

- Does them for a reasonable length of time, and
  - Does a job normally done for pay or profit. *Id.* at 9.
- Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

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

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

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2012 income limit is \$1010/month.

In the present case, Claimant denied having any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12-month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment

- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1<sup>st</sup> Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1<sup>st</sup> Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the relevant submitted medical documentation.

Hospital documents (Exhibits 16-18) from an admission dated [REDACTED]/10 were presented. It was noted that Claimant presented with complaints of radiating chest pain. It was noted that during hospitalization, Claimant experienced 99% stenosis of the mid RCA, which resolved with nitroglycerin. It was noted that Claimant continued on aggressive plaque stabilizing therapy. It was noted that Claimant was discharged on [REDACTED]/11 in good condition.

Hospital documents (Exhibits 13-15) from an admission dated [REDACTED] 11 were presented. It was noted that Claimant presented with complaints of radiating chest pain. It was noted that Claimant underwent emergency cardiac catheterization revealing 90% stenosis with thrombus of mid RCA. It was noted that a thrombectomy was performed and a stent was placed. It was noted that ejection fraction was 56%. Noted diagnoses included inferior STEMI, acute renal failure, hypertension and tobacco abuse. It was noted that Claimant was discharged on [REDACTED]/11.

A Discharge Summary (Exhibits 9-10) from an admission dated [REDACTED]/12 was presented. It was noted that Claimant presented with complaints of radiating chest pain. It was noted that Claimant's pain initially was relieved with nitroglycerin, but the pain returned. It was noted that the pain was likely secondary to Prinzmetal's angina. Discharge instructions included a follow-up with PCP and with cardiology clinic. Claimant's medications were adjusted upon discharge. It was noted that Claimant was discharged on [REDACTED]/12.

A Medical Examination Report (Exhibits A1-A2) dated ■■■/13 from Claimant's treating physician was presented. It was noted that the physician first treated Claimant on ■■■/13 and last examined Claimant on ■■■/12; presumably the physician first examined Claimant in 2012. The physician provided diagnoses of hypertension, hand neuralgia, coronary artery disease and hypercholesterolemia. An impression was given that Claimant's condition was stable. The physician opined that Claimant could occasionally lift 20 pounds or less and frequently lift 25 pounds and more; presumably, the physician intended to restrict Claimant from lifting 25 pounds or more. The physician noted that Claimant could stand or walk at least 2 hours in an 8-hour day and sit about 6 hours in an 8 hour day. The physician noted no limitations for Claimant concerning hand, arm or foot repetitive actions. The physician noted that Claimant had no mental limitations.

The medical evidence established a history of heart problems for Claimant. Hospital physicians diagnosed Claimant with Prinzmetal's angina. Claimant's physician diagnosed Claimant with CAD; in either case, a physician diagnosed Claimant with a cardiac disease. Impairments were documented by Claimant's physician, presumably due to cardiac disease. Despite some carelessness from Claimant's physician, walking and lifting restrictions were established.

Presented documents verified that Claimant had cardiac problems leading to a hospitalization in each year from 2010-2012. Claimant's physician verified continued restrictions for Claimant in 2013. The evidence is sufficient to establish that Claimant's impairments have lasted longer than 12 months and at least since ■■■/2012.

As it was found that Claimant established significant impairment to basic work activities for a period longer than 12 months, it is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's most prominent impairment appears to be coronary artery disease. The diagnosis is best covered by Listing 4.04 which reads:

**4.04 Ischemic heart disease**, with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following:

**A.** Sign- or symptom-limited exercise tolerance test demonstrating at least one of the following manifestations at a workload equivalent to 5 METs or less:

1. Horizontal or downsloping depression, in the absence of digitalis glycoside treatment or hypokalemia, of the ST segment of at least -0.10 millivolts (-1.0 mm) in at least 3 consecutive complexes that are on a level baseline in any lead other than a VR, and depression of at least -0.10 millivolts lasting for at least 1 minute of recovery; or
2. At least 0.1 millivolt (1 mm) ST elevation above resting baseline in non-infarct leads during both exercise and 1 or more minutes of recovery; or
3. Decrease of 10 mm Hg or more in systolic pressure below the baseline blood pressure or the preceding systolic pressure measured during exercise (see 4.00E9e) due to left ventricular dysfunction, despite an increase in workload; or
4. Documented ischemia at an exercise level equivalent to 5 METs or less on appropriate medically acceptable imaging, such as radionuclide perfusion scans or stress echocardiography.

OR

**B.** Three separate ischemic episodes, each requiring revascularization or not amenable to revascularization (see 4.00E9f), within a consecutive 12-month period (see 4.00A3e).

OR

**C.** Coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2:

1. Angiographic evidence showing:
  - a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or
  - b. 70 percent or more narrowing of another nonbypassed coronary artery; or
  - c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or
  - d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or
  - e. 70 percent or more narrowing of a bypass graft vessel; and
2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living.

Presented cardiac treatment history was sparse. The evidence that was presented did not address exercise tolerance, artery narrowing or three ischemic episodes within 12 months. It is found that Claimant does not meet the listing for ischemic heart disease.

Claimant failed to present sufficient medical evidence to justify consideration of any other listings. It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant testified that she performed past employment involving food concession and a utility company. Claimant testified that her past employment required substantial walking and standing, which she can no longer do. Claimant's testimony was consistent with the medical evidence. It is found that Claimant cannot perform her past relevant employment.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking



or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

A determination of disability is dependent on Claimant's ability to perform light employment, given Claimant's age, education and employment history. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday. As noted above, lifting of 20 pounds with frequent lifting or carrying objects weighing up to 10 pounds is also a requirement. Claimant's treating physician noted that Claimant can perform the necessary sitting for light employment.

Claimant's physician noted that Claimant was restricted to standing of less than 6 hours but more than 2 hours in an 8-hour day. The physician also noted that Claimant could occasionally lift 20 pounds but not frequently lift 10 pounds. The physician's noted restrictions would have been more persuasive if the physician did not carelessly state the dates of Claimant's examination and lifting restrictions. The restrictions also might have been more persuasive if treatment records were presented; they were not. Despite flaws in how Claimant's restrictions were expressed, the treating physician's likely intentions will be accepted as restrictions.

Accepting the physician statements on the Medical Examination Report as they were likely intended leads to a finding that Claimant can perform employment requiring standing 2 to 6 hours per day and lifting up to 20 pounds, but not with frequent lifting of 10 pounds. Claimant's standing restrictions (2-6 hours) would place Claimant at less than a full range of light employment.

Claimant's ejection fraction was measured at 56%. Such an ejection fraction is accepted to be relatively normal and is consistent with a finding that Claimant can perform light employment.

Claimant's hospital physician diagnosed Claimant with Prinzmetal's angina. This type of angina is understood to be one that causes problems cyclically when a person is at rest. Because Prinzmetal's angina tends to occur when a person is at rest, it is presumed to cause Claimant fewer exertional restrictions than other cardiac problems.

Since Claimant was hospitalized in [REDACTED]/2011, based on presented records, Claimant has been hospitalized for one day since. The relative lack of hospitalizations for Claimant is consistent with finding that Claimant has minor cardiac restrictions.

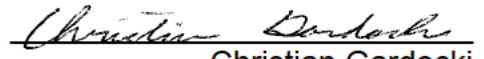
Though Claimant's impairments would not qualify her for a full range of light employment, the evidence tended to establish that she is only marginally restricted from performing a full range of light employment. The marginal restriction justifies evaluating Claimant based on a finding that she is capable of performing light employment.

Based on Claimant's exertional work level (light), age (approaching advanced age), education (limited but literate and able to communicate in English), employment history (unskilled), Medical-Vocational Rule 202.10 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of MA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated 6/26/12

based on a determination that Claimant is not disabled. The actions taken by DHS are **AFFIRMED**.

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

Date Signed: 11/15/2013

Date Mailed: 11/15/2013

**NOTICE OF APPEAL:** Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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.

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

CG/hw

cc: 

