

**STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

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████████████████████

Reg. No: 2013-5138
Issue No: 2009; 4031
Case No: ██████████
Hearing Date: January 31, 2013
County: Tuscola DHS

ADMINISTRATIVE LAW JUDGE: Carmen Fahie

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 conference hearing was held on Thursday, January 31, 2013. Claimant personally appeared and testified with her advocate, ██████████, from Tuscola Behavior Health System. The Department was represented by Kathy Bailey, ES.

ISSUE

Did the Department properly deny the Claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. On August 3, 2012, the Claimant applied for MA-P and SDA without filing an application for retroactive MA-P.
2. On September 18, 2012, the Medical Review Team (MRT) denied the Claimant's application for MA-P and retroactive MA-P stating that the Claimant is capable of performing her past relevant work per 20 CFR 416.920(E) and SDA that the Claimant's physical and mental impairment does not prevent employment for 90 days or more.
3. On September 28, 2012, the Department caseworker sent the Claimant a notice that her application was denied.
4. On October 12, 2012, the Department received a hearing request from the Claimant, contesting the Department's negative action.
5. On December 11, 2012, the State Hearing Review Team (SHRT) considered the submitted objective medical evidence in making its determination of MA-P, retroactive MA-P, and SDA eligibility for the Claimant. The SHRT report reads in part that the Claimant not capable of

performing her past, relevant work, but the skills should transfer to other occupations at the light exertional level. She is not currently engaged in substantial, gainful activity. The Claimant did not meet a Social Security listing. The Claimant did have a significant psychological impairment, but the evidence did not support that there were significant limitations associated with this conditions As a result, the Claimant was denied for MA-P, Retroactive MA-P, and SDA.

6. During the hearing on January 31, 2013, the Claimant requested permission to submit additional medical information that needed to be reviewed by SHRT. Additional medical information was received from the local office on February 26, 2013 and forwarded to SHRT for review on March 7, 2013.
7. On May 20, 2013, the SHRT considered the newly submitted objective medical evidence in making its determination of MA-P, retroactive MA-P, and SDA. The SHRT report reads in part:

The Claimant is not currently engaged in substantial, gainful activity. The Claimant's impairments do not meet/equal the intent or severity of a Social Security listing of 1.02/04, 4.04, 5.06, 11.14, and 12.04/06. The medical evidence of record indicates that the Claimant retains the capacity to perform light exertional tasks of a simple and repetitive nature. The Claimant's past work was as a machinist, 600.280-022, 7M. As such, the Claimant would be unable to perform to perform the duties associated with her past work. Therefore, based on the Claimant's vocational profile (49 year old individual, 12th grade education, and history of medium exertional, skilled work), MA-P is denied using Vocational Rule 202.20 under 20 CFR 416.920 (e&g) as a guide. Retroactive MA-P was considered in this case and is also denied. SDA is denied per PEM 261 because the nature and severity of the Claimant's impairments would not preclude work activity at the above stated level for 90 days.

8. The Claimant is a 49 year-old woman whose date of birth is [REDACTED]. The Claimant is 62" tall and weighs 336 pounds. The Claimant has a high school education and an Associate's Degree in Data Management. The Claimant can read, write, and do basic math. The Claimant was last employed as a machinist in April 2009, at the medium level. She was also employed as a gas attendant, at the light to sedentary level.

9. The Claimant's alleged impairments are arthritis, high blood pressure, controlled with medication, overactive bladder, obesity, and hernia, GERD, controlled with over the counter medication, depression, and anxiety.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or Department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

"Disability" is:

...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.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled.

We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include:

- (1) Medical history;
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms:** is your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs:** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques.

Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) **Laboratory Findings:** are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgen logical studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine:

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

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable 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. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

...In deciding whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. 20 CFR 416.927(b).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

...If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence. 20 CFR 416.927(c)(1).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider

your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment(s).... 20 CFR 416.945(a).

...In determining whether you are disabled, we will consider all of your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with objective medical evidence, and other evidence.... 20 CFR 416.929(a).

...In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you... We will then determine the extent to which your alleged functional limitations or restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work.... 20 CFR 416.929(a).

If you have more than one impairment, we will consider all of your impairments of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based upon all of the relevant evidence. This assessment of your capacity for work is not a decision on whether you are disabled but is used as a basis for determining the particular types of work you may be able to do despite your impairment. 20 CFR 416.945.

...When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work. 20 CFR 416.945(b).

Federal regulations require that the Department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months ... 20 CFR 416.905

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). At Step 1, the Claimant is not engaged in substantial gainful activity and has not worked since April 2009. Therefore, the Claimant is not disqualified from receiving disability at Step 1.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities means, the abilities and aptitudes necessary to do most jobs. Examples of these include:

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

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity

requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

The objective medical evidence on the record further substantiates the following:

On February 5, 2013, the Claimant’s treating psychiatrist submitted a Psychiatric/Psychological Examination Report, DHS-49D, on behalf of the Claimant. The Claimant was diagnosed with Major Depressive Disorder, Recurrent 296.30. She was given a GAF of 45. The Claimant’s daily functioning was limited by psychological and medical issues including morbid obesity, arthritis, blood pressure, and umbilical hernia. Insight and judgment were fair. The Claimant was oriented to person, place, and time. Her memory was intact. The Claimant affect was depressed in a tearful and crying state. Department Exhibit 1-3. The Claimant was markedly limited in sustained concentration and persistence in her ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances, to sustain an ordinary routine without supervision, to work in coordination with or proximity to others without being distracted by them, to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods. The Claimant was also markedly limited in her ability to respond appropriately to change in the work setting and to travel in unfamiliar places or use public transportation. Department Exhibit 4-5.

On December 14, 2012, the Claimant’s treating psychiatrist submitted a Medication Review. The Claimant was sleeping fairly well. Her depression was much better. She is feeling stressed out as she sometimes has shortness of breath. The Claimant was concerned with a high blood pressure. She was much calmer and able to express herself appropriately. The Claimant was able to smile appropriately. There was no evidence of suicidal or homicidal ideations, and psychosis. She was concerned about her health issues. Her diagnosis was major depression, recurrent. The Claimant was continued on her medications. Department Exhibit A.

On September 25, 2012, the Claimant’s treating physician completed an initial psychiatric evaluation. The Claimant was diagnosed with major depression, recurrent, 296.30. She was given a GAF of 45-50. Her grooming was fair. She was not in physical distress. The Claimant did not have abnormal involuntary movements. She denied auditory and visual hallucinations. The Claimant denied any paranoia. Her affect was depressed. She was tearful and crying readily. The Claimant did admit to feeling of hopelessness and helplessness. The Claimant denied suicidal and homicidal ideations or intent. She was oriented to time, place, and person. Memory, judgment, and attention/concentration were fair. Insight was present to some extent. Department Exhibit b-c.

On June 14, 2012, the Claimant underwent an independent medical examination with HCC Evaluations, L.L.C. The Claimant had an essentially normal physical examination except the independent medical examiner noted the following issues. The Claimant was diagnosed with osteoarthritis, worse in the right knee; also in the hands, elbows, and ankles, urinary incontinence, hypertension, and obesity. The Claimant had mild limitation in flexion. There was mild limitation of physical activity. The Claimant has

hypertension, but no evidence of angina or congestive heart failure. The Claimant is not taking any medication and her blood pressure was 140/98. The Claimant feels fatigue because of her obesity and arthritis. Department Exhibit 12-18.

At Step 2, the objective medical evidence in the record indicates that the Claimant has established that she has a severe impairment. The Claimant has mental limitations that are treated with medications and therapy. She has mild physical limitations as a result of her obesity and arthritis. However, the Claimant should be able to perform simple, unskilled, light work. Therefore, the Claimant is not disqualified from receiving disability at Step 2. However, this Administrative Law Judge will proceed through the sequential evaluation process to determine disability because Step 2 is a *de minimus* standard.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). This Administrative Law Judge finds that the Claimant's impairments do not rise to the level necessary to be listed as disabling by law. Therefore, the Claimant is disqualified from receiving disability at Step 3.

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment(s) prevents Claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical and psychological findings that the Claimant does perform her daily living activities. Physically, she felt that her knee pain has worsened.

The Claimant felt that she could walk 2 blocks. The longest she felt she could stand was 30 minutes. The Claimant has no problem sitting. The heaviest weight she felt she could carry was 50 pounds. The Claimant's level of pain on a scale from 1 to 10 without medication is an 8, which decreases to a 6 with medication.

The Claimant has never smoked. She stopped drinking alcohol 7 to 8 years ago, where before she drank socially. The Claimant did not think that there was any work that she could do.

At Step 4, this Administrative Law Judge finds that the Claimant has not established that she cannot perform any of her prior work. The Claimant was previously employed as machinist at the medium level and a gas attendant at the light to sedentary level. The Claimant has mild physical limitations. She is in therapy and taking medications for her mental impairments. The Claimant is capable of performing simple, unskilled, light work. Therefore, the Claimant is disqualified from receiving disability at Step 4. However, the Administrative Law Judge will still proceed through the sequential evaluation process to determine whether or not the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior jobs.

In the fifth step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment(s) prevents Claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the Claimant's:

- (1) residual functional capacity defined simply as "what can you still do despite your limitations?" 20 CFR 416.945;
- (2) age, education, and work experience, 20 CFR 416.963-.965; and
- (3) the kinds of work which exist in significant numbers in the national economy which the Claimant could perform despite his/her limitations. 20 CFR 416.966.

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

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

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

...To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. 20 CFR 416.967(b).

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

Unskilled work: Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength.... 20 CFR 416.968(a).

The objective medical evidence on the record is insufficient that the Claimant lacks the residual functional capacity to perform some other less strenuous tasks than in her previous employment or that she is physically unable to do any tasks demanded of her. The Claimant's testimony as to her limitation indicates her limitations are exertional and non-exertional.

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

In the instant case, the Claimant stated that she has depression and anxiety. The Claimant is in treatment and taking medications. She was given a GAF of 45 to 50, which shows serious symptoms or any serious impairment in social, occupational, or school functioning. (See step 2 and 4) As a result, there is sufficient medical evidence of a mental impairment that is so severe that it would prevent the Claimant from working at a skilled, detailed job, but the Claimant should be able to perform simple, unskilled work.

At Step 5, the Claimant should be able to meet the physical requirements of light work, based upon the Claimant's physical abilities. Under the Medical-Vocational guidelines, a younger individual with a high school education, and a skilled work history, who is limited to simple, unskilled, light work, is not considered disabled. 20 CFR 404, Subpart P, Appendix 2, Rule 202.20. The Medical-Vocational guidelines are not strictly applied with non-exertional impairments such as depression and anxiety. 20 CFR 404, Subpart P, Appendix 2, Section 200.00. Using the Medical-Vocational guidelines as a framework for making this decision and after giving full consideration to the Claimant's physical and mental impairments, the Administrative Law Judge finds that the Claimant can still perform a wide range of simple, unskilled, light activities and that the Claimant does not meet the definition of disabled under the MA program.

The Department's Program Eligibility Manual provides the following policy statements and instructions for caseworkers regarding the SDA program.

DISABILITY – SDA DEPARTMENT POLICY

SDA:

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older.

Note: There is no disability requirement for AMP. PEM 261, p. 1.

DISABILITY:

A person is disabled for SDA purposes if he/she:

- . receives other specified disability-related benefits or services, or
- . resides in a qualified Special Living Arrangement facility, or
- . is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- . is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. PEM, Item 261, p. 1.

Other Benefits or Services:

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- . Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- . Supplemental Security Income (SSI), due to disability or blindness.
- . Medicaid (including spend-down) as blind or disabled if the disability/blindness is based on:
 - .. a DE/MRT/SRT determination, or
 - .. a hearing decision, or
 - .. having SSI based on blindness or disability recently terminated (within the past 12 months) for financial reasons.

Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has an active MRS case. Do not refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.

- . Special education services from the local intermediate school district. To qualify, the person may be:

- .. attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - .. not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent; **and** is
 - .. under age 26. The program does not have to be designated as “special education” as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- . Refugee or asylee who lost eligibility for Social Security Income (SSI) due to exceeding the maximum time limit PEM, Item 261, pp. 1-2.

Because the Claimant does not meet the definition of disabled under the MA program and because the evidence in the record does not establish that the Claimant is unable to work for a period exceeding 90 days, the Claimant does not meet the disability criteria for SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, and conclusions of law, decides that the Department has appropriately established that it was acting in compliance with Department policy when it denied the Claimant's application for MA-P, retroactive MA-P, and SDA. The Claimant should be able to perform any level of simple, unskilled, light work. The Department has established its case by a preponderance of the evidence.

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

/s/ _____
Carmen G. Fahie
ADMINISTRATIVE LAW JUDGE
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/15/2013

Date Mailed: 07/16/2013

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.

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

CGF/pw

cc: [REDACTED]
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