

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

IN THE MATTER OF:



Reg. No.: 201366730
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Medical Contact Worker.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) benefit programs?

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 May 16, 2013, Claimant submitted an application for public assistance seeking (i) SDA and (ii) MA-P benefits.
2. On August 16, 2013, the Medical Review Team (MRT) found Claimant not disabled. (Exhibit 3, pp. 1-2)

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3. On August 21, 2013, the Department sent Claimant a Notice of Case Action notifying her of the denial of her application based on MRT's determination that she was not disabled.
4. On September 4, 2013, the Department received Claimant's timely written request for hearing. (Exhibit 1)
5. On September 4, 2013, Claimant filed a request for hearing disputing the Department's finding.
6. On October 20, 2013, the State Hearing Review Team (SHRT) found Claimant not disabled. (Exhibit 4)
7. Claimant alleged physical disabling impairment due to ankle and foot pain and pain in her hips and shoulders.
8. At the time of hearing, Claimant was [REDACTED] years old with a [REDACTED], birth date; was [REDACTED] in height; and weighed [REDACTED] pounds.
9. Claimant has a [REDACTED] grade education and no material employment history.
10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The 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 Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Bridges Reference Tables (RFT).

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result

in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

In order to determine whether or not an individual is disabled, federal regulations require use of a five-step sequential evaluation process. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider (1) whether the individual is engaged in substantial gainful activity (SGA); (2) whether the individual's impairment is severe; (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR, Part 404; (4) whether the individual has the residual functional capacity to perform past relevant; and (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to 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 evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4)

In general, the individual has the responsibility to prove a disability. 20 CFR 416.912(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a) Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927(d).

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 applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is substantial gainful activity (SGA), then the individual must be considered as not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant has not engaged in SGA activity during the period for which assistance might be available. Therefore, Claimant is not ineligible under Step 1 and the analysis continues to Step 2.

Step Two

Under Step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement states that the impairment is expected to result in death or have lasted or must be expected to last for a continuous period of at least 12 months. 20 CFR 416.922. An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a); see also *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; the capacity to see, hear, and speak; the ability to understand, carry out, and remember simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting. CFR 416.921(b).

If a client alleges mental impairments, a special technique is used. 20 CFR 416.920a(a). First, an individual's pertinent symptoms, signs, and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitation(s) is

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assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

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

At the second step, the individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. A disability claim obviously lacking in medical merit may be dismissed. *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).

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). In the present case, Claimant alleges disability due to foot pain and arthritis in her feet, hips and shoulders.

Claimant's medical file includes Medical Exam Report, DHS-49, completed on June 6, 2013, by a physician specializing in orthopedic trauma surgery. The doctor diagnoses Claimant with osteoarthritis causing pain and swelling in the right ankle that is made worse with walking. The injury followed a 2004 open reduction and internal fixation (ORIF) surgery in Claimant's ankle. The doctor concluded that Claimant's condition was stable but expected to last more than 90 days. He identified limitations as follows: (i) Claimant could lift up to ten pounds frequently (2/3 of an 8 hour day), (ii) she could stand or walk less than 2 hours in an 8-hour workday, (iii) she did not need any assistive devices for ambulation; and (iv) she could not repetitively operate foot or leg controls

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with her right foot. There were no limitations to Claimant's ability to sit or repetitive use of her hands or arms.

The doctor based his diagnosis on his May 15, 2013, examination of Claimant. In his physical examination, he focused on Claimant's right lower extremity, noting that the extremity was neurovascularly intact with palpable dorsalis pedis pulse with pain and soft touch sensation intact. The right ankle had point tenderness at the medial malleoli and the dorsal aspect of the ankle. There was pain with ankle plantar flexion, dorsiflexion and internal and external rotation. Otherwise, skin was intact with no obvious lesions. Muscular strength with ankle flexion and extension was 5/5; hip flexion and extension was 5/5. The doctor also reviewed x-ray images of Claimant's ankle which revealed significant osteoarthritis at the tibiotalar joint along with tibiotalar and fibulotalar joint space narrowing and subchondral sclerosis. A comparison to the imaging from the 2004 ORIF showed significant interval osteoarthritis. The doctor concluded that Claimant's ankle pain and swelling was likely due to osteoarthritis, not from hardware complication from her ORIF procedure. The doctor recommended physical therapy for improvement in joint flexibility and increased range of motion.

Claimant participated in a consultative examination on February 5, 2013, apparently in connection with a prior MA-P application, which resulted in a written report. The consulting physician, board certified in emergency medicine, examined Claimant's extremities and found no obvious spinal deformity, swelling or muscle spasm; no calf tenderness, clubbing, edema, varicose veins, brawny erythema, stasis dermatitis; and no chronic leg ulcers, muscle atrophy, or joint deformity or enlargement. Claimant was observed to have a slight limp on the right side, but her stance was normal. Although she had a cane, she did not use it during the examination. She tandem-walked, heel-walked and toe-walked very slowly. She was able to squat to 70% of the distance and recover and to bend to 90% of the distance and recover. Her straight leg was 0-50 while lying down and 0 to 90 while sitting. The report also noted that Claimant had a history of hypertension which was being treated with medication and mental illness and depression which was not being treated because of lack of insurance. The report concluded that Claimant needed ongoing management for her blood pressure on a consistent basis and she may have difficulty with standing for prolonged periods of time on the right lower extremity. The doctor completed a range of motion report showing, consistent with her report, limitation on Claimant's forward flexion of the hip of 0 to 50, where the normal range is 0 to 100, and on her straight leg raise of 0 to 50 in the supine position and 0 to 90 in the seated position. The consulting physician concluded, based on her observation, that Claimant did not have any limitations in her current abilities.

Although Claimant did not allege any mental conditions in her current application or at the hearing, Claimant participated in a mental examination on February 5, 2013 resulting in a mental status report. Claimant was diagnosed with adjustment disorder, with a GAF score of 60. The exam showed that Claimant's intellectual functioning was

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limited such that the doctor concluded that she would require a public guardian to manage funds. However, the doctor concluded that Claimant could acquire and use information; interact appropriately; care for self, ask questions and follow simple directions; understand, retain and follow simple instructions. He noted that she was generally restricted to performing simple, routine, repetitive, concrete, tangible tasks.

As summarized above, Claimant has presented limited medical evidence establishing that she does have some mental limitations on her ability to perform basic work activities. The degree of functional limitation on Claimant's activities, social function, concentration, persistence, or pace is identified as mild. The degree of functional limitation in the fourth area (episodes of decompensation) is at most a one.

In this case, Claimant's medical evidence concerning her combined physical and mental status is sufficient to present severe impairments that have lasted or are expected to last for a continuous period of not less than 12 months. Therefore, in consideration of the de minimis standard, Claimant has satisfied the requirements under Step 2 and the analysis will proceed to Step 3.

Step Three

The third step of the sequential analysis of a disability claim requires a determination if the individual'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).

The evidence shows diagnosis of, and treatment for, osteoarthritis and adjustment disorder.

Based on the objective medical evidence of osteoarthritis, Listing 1.02 (major dysfunction of a joint) and Listing 1.06 (fracture of the femur, tibia, pelvis or one or more of the tarsal bones) were considered. In order to meet a listing under 1.02, there must be involvement of one major peripheral weight-bearing joint resulting in inability to ambulate effectively. To meet a listing under 1.06, there must be evidence that (i) a solid union is not evident on appropriate medically acceptable imaging and not clinically solid and (ii) an inability to ambulate effectively. An inability to ambulate effectively means an extreme limitation on the ability to walk and must be supported by medical evidence showing ranges of motion, condition of the musculature, sensory or reflex changes, circulatory deficits, and laboratory findings. 1.00B2(b)(1); 1.00C1.

In this case, the May 28, 2013 report showed significant osteoarthritis at the tibiotalar joint along with tibiotalar and fibulotalar joint space narrowing and subchondral sclerosis. There was no evidence of the lack of a solid union. There was noted point tenderness at the medial malleoli and the dorsal aspect of the ankle and pain reported with the ankle plantar flexion, dorsiflexion and internal and external rotation. However, muscular strength with ankle flexion and extension was 5/5. The February 5, 2013

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physical exam report showed no limitations to Claimant's dorsi-flexion and plantor-flexion in her ankle. Neither the June 6, 2013 medical exam report nor the February 5, 2013 physical exam report indicated that an assistive device was medically required and needed for ambulation.

The foregoing evidence does **not** show that Claimant's impairment of osteoarthritis meets or is equal to the required level of severity of a listing to be considered as disabling without further consideration.

Regarding Claimant's adjustment disorder diagnosis, Listing 12.04 (affective disorder) was considered. Affective disorder is characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. In order to meet the severity for these disorders, the client must establish depressive syndrome, manic syndrome or bipolar syndrome resulting in marked restrictions or limitation or repeated episode of decompensation of extended duration or a medically documented history of a chronic affective disorder of at least 2 years' duration resulting in more than a minimal limitation of ability to do basic work activities.

The February 5, 2013 mental status report showed that Claimant had mild functional limitations and recommended a public guardian to manage her funds. However, medical evidence presented was insufficient to establish an affective disorder meeting Listing 12.04.

The evidence does **not** show that Claimant's impairment of osteoarthritis and affective disorder meets or is equal to the required level of severity of a listing to be considered as disabling without further consideration. The disability analysis therefore proceeds to Step 4.

Residual Functional Capacity

If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity (RFC) is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Impairments, and any related symptoms, may cause physical and mental limitations that affect what a person can do in a work setting. 20 CFR 416.945(a)(1). RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s). 20 CFR 416.945(a)(1). The total limiting effects of all impairments, including those that are not severe, are considered. 20 CFR 416.945(e). RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). RFC assessment takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(4).

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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).

If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b). To determine the exertional requirements, or physical demands, of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a).

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.

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. 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. If someone can do light work, . . . 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.

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, . . . he or she can also do sedentary and light work.

Heavy work.

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, . . . he or she can also do medium, light, and sedentary work.

Very heavy work.

Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, . . . he or she can also do heavy, medium, light, and sedentary work. 20 CFR 416.967.

In this case, Claimant has no material past work history. The medical examination report indicated that she could lift up to 10 pounds frequently, could stand and/or walk less than 2 hours in an 8-hour day, had no limitation in her ability to sit, and was limited

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in repetitive actions involving her right foot/leg. The report did not identify whether Claimant could lift weights greater than 10 pounds. However, Claimant testified that she had difficulty lifting items with her right hand. Further, although supplemental report to the February 5, 2013, consultative physical report indicated that Claimant had no limitations in the activities she could perform, this finding was contradicted by the doctor's statement that "she may have difficulty with standing for prolonged periods of time on the right lower extremity."

Claimant testified she could not stand for more than 20 minutes at a time and could not bend or squat because it hurt her lower back. She stated she had difficulty balancing herself but could walk about a block. She testified that surgery to put an artificial bone in her foot had been recommended, but there was no medical evidence to support her statement.

The evidence established that Claimant's physical limitations resulted in an ability to do sedentary work.

When an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands (i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling), the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

In this case, Claimant has mild limitations in her intellectual functioning. However, as of February 5, 2013, her GAF score was 60. While she was determined able to acquire and use information; interact appropriately; care for self, ask questions and follow simple directions; and understand, retain and follow simple instructions, she was generally restricted to performing simple, routine, repetitive, concrete, tangible tasks.

Ultimately, after review of the entire record to include Claimant's testimony, it is found based on Claimant's mental and physical conditions that Claimant maintains the

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capacity to perform sedentary work as defined by 20 CFR 416.967(a). Claimant's RFC is considered at both steps four and five. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

The fourth step in analyzing a disability claim requires assessing Claimant's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). 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). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. 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 at step four. 20 CFR 416.960(b)(3).

As determined in the RFC analysis above, Claimant is limited to no more than sedentary work activities and restricted to performing simple, routine, repetitive, concrete, tangible tasks. Claimant has no material prior work history in the 15 years prior to the application. In light of Claimant's lack of past employment, Claimant cannot be found disabled, or not disabled, at Step 4 and the assessment continues to Step 5.

Step 5

In Step 5, Claimant's RFC and age, education, and work experience is considered to determine whether Claimant can adjust to other work. 20 CFR 416.920(4)(v). At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the RFC to obtain and maintain 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). If the individual can adjust to other work, then there is no disability. Disability is found if an individual is unable to adjust to other work. *Id.*

In this case, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical and mental demands required to perform sedentary work as defined in 20 CFR 416.967(a). Because she had no work history, she has no transferable skills. At the time of hearing, the Claimant was 51 years old and, thus, considered to be a closely approaching advanced age individual for MA-P purposes.

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Claimant does not have a high school degree. There was no evidence that she was illiterate. Accordingly, after review of the entire record and in consideration of Claimant's age, education, work experience, RFC, and using the Medical-Vocational Guidelines (20 CFR 404, Subpart P, Appendix II) as a guide, specifically Rule 201.09, Claimant is found **disabled** at Step 5.

With respect to SDA, a person is considered disabled if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, Claimant is found disabled for purposes of the MA-P program and, therefore, disabled for purposes of SDA benefit program.

DECISION AND ORDER

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

Accordingly, the Department's determination is REVERSED.

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

1. Process Claimant's May 16, 2013, MA-P and SDA application to determine if all the other non-medical criteria are satisfied and notify Claimant of its determination;
2. Supplement Claimant for lost benefits, if any, that Claimant was entitled to receive if otherwise eligible and qualified;
3. Review Claimant's continued eligibility in March 2015.



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

Date Signed: February 19, 2014

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Date Mailed: February 19, 2014

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

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

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

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

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

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

Attention: MAHS Rehearing/Reconsideration Request

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

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

ACE/tlf

cc:

