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

**IN THE MATTER OF:**

[redacted]

Reg. No.: 2013-69167
Issue No(s).: 2009, 4009
Case No.: [redacted]
Hearing Date: January 30, 2014
County: Emmett County DHS

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

## 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 30, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [redacted], Non-Attorney Disability Representative, Authorized Hearing Representative. Participants on behalf of the Department of Human Services (Department) included [redacted], Eligibility Specialist

During the hearing, Claimant waived the time period for the issuance of this decision, in order to allow for the submission of additional medical evidence. The evidence was received, reviewed, and forwarded to the State Hearing Review Team ("SHRT") for consideration. The SHRT found Claimant not disabled. This matter is now before the undersigned for a final determination.

## ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) 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 June 13, 2013, Claimant applied for Medicaid (MA-P), retroactive MA-P to March 2013, and SDA.

2. On September 9, 2013, the Medical Review Team (MRT) found Claimant not disabled.

3. On September 12, 2013, the Department notified Claimant of the MRT determination.

4. On September 16, 2013, the Department received Claimant's timely written request for hearing.

5. On November 3, 2013, the State Hearing Review Team (SHRT) found Claimant not disabled.

6. Claimant alleged physical disabling impairments due to colitis, bleeding peptic ulcer, pancreatitis, brittle diabetes, asthma, COPD, and overall aches and pains due to malnutrition.

7. Claimant alleged mental disabling impairments due to depression.

8. At the time of hearing, Claimant was 50 years old with a [redacted], birth date; was 5'9" in height; and weighed 148 pounds.

9. Claimant has a 9th or 10th grade education and no history of sustained fulltime employment in the past 15 years.

10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

## CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 purusant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impariment 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.

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

disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 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.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity therefore is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

2. Capacities for seeing, hearing, and speaking;

3. Understanding, carrying out, and remembering simple instructions;

4. Use of judgment;

5. Responding appropriately to supervision, co-workers and usual work situations; and

6. Dealing with changes in a routine work setting.

*Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen,* 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services,* 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a Claimant's age, education, or work experience, the impairment would not affect the Claimant's ability to work. *Salmi v Sec of Health and Human Services,* 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to colitis, bleeding peptic ulcer, pancreatitis, brittle diabetes, asthma, COPD, overall aches and pains due to malnutrition and depression.

Claimant was hospitalized from January 20, 2014 through January 26, 2014 with discharge diagnoses including: gastric ulcer, GI bleed; anemia in setting of GI bleed; history of pancreatitis that was well controlled during the inpatient stay and no evidence of pancreatitis on CT studies; acute renal failure in the setting of dehydration resolved

with IV fluid therapy; diabetes mellitus initially poorly controlled, on monotherapy in the outpatient setting; hypothyroidism, on Synthroid, TSH mildly elevated on admission but a recent medication adjustment was noted; COPD, as needed DuoNeb during inpatient stay; history of ETOH abuse with recent detox and treatment; tobacco abuse disorder, cessation is a must; and aspiration pneumonia. The records document that Claimant had recently been drinking heavily after getting upset about smoking restrictions at the detox treatment provider. Additionally, during the admission Claimant located his own medications, took those in excess and was noted to have been quite manipulative with the staff throughout his stay.

Claimant was seen in the Emergency Room on January 18, 2014 for alcohol intoxication, hypothyroidism, and depression.

A December 11, 2013, MRI of the Lumbar Spine showed: severe central spinal and bilateral lateral recess stenosis at L4-L5 secondary to congenitally narrow canal, circumferential bulging facet ligamentum flavum hypertrophy producing bilateral lateral recess stenosis; mild bilateral lateral recess stenosis at L3-4 and right lateral recess stenosis at L5-S1.

On December 9, 2013, Claimant was seen in the Emergency Room for abdominal pain of uncertain etiology, hyperglycemia with diabetes type 2, rule out pneumonia and chronic pancreatitis. A December 9, 2013 CT of Abdomen and Pelvis included findings consistent with chronic pancreatitis.

On December 7, 2013, Claimant was seen in the Emergency Room for acute back and chest pain, history of GERD, diabetes, and history of chronic pancreatitis.

A December 5, 2013 Thoracic Spine x-ray showed some mild loss of height of some of the mid thoracic vertebral bodies without an obvious acute compression fracture demonstrated.

An October 28, 2013 Lumbrosacral Spine x-ray showed mild lumbar scoliosis, a partially sacralized L5 segment, and extensive pancreatic calcifications.

On October 1, 2013, Claimant attended a psychiatric/psychological consultative examination. Axis I diagnoses were alcohol dependence in recent remission, social anxiety disorder, and major depression recurrent severe level. Claimant's prognosis was guarded and poor. The report indicates prior suicide attempts, ongoing suicidal thoughts and two psychiatric admissions for observation. It was also noted that Claimant's weight was steady lately.

On September 6, 2013, Claimant attended a consultative medical examination. Claimant's weight was 149 pounds. Claimant had a normal gait and was able to ambulate without the use of any assistive devices. Grip strength was full and digital dexterity was intact. Claimant was able to bend forward, squat, and heel-toe walk without any difficulty.

On September 1, 2013, Claimant was seen in the Emergency Room for abdominal pain uncertain etiology, chronic pancreatitis, and clostridium difficile.

Claimant was hospitalized from August 28, 2013 through September 1, 2013 for clostridium difficile colitis, noncardiac chest pain, chronic pancreatitis, diabetes and COPD. An August 30, 2013 CT of Abdomen included findings of chronic pancreatitis without evidence of acute pancreatitis.

On July 29, 2013, Claimant was seen in the Emergency Room for acute abdominal pain and acute epididymitis.

On July 2, 2013, Claimant was seen in the Emergency Room for peripheral vertigo.

On June 28, 2013, Claimant was seen in the Emergency Room for dizziness/vertigo and diabetes.

On June 14, 2013, Claimant was seen in the Emergency Room for sciatica.

Claimant was hospitalized from May 19, 2013 through May 21, 2013 for recurrent abdominal pain unknown etiology, chronic pancreatitis, history of alcohol abuse, COPD, diabetes mellitus, hypothyroidism, and GERD.

On May 18, 2013, Claimant was seen in the Emergency Room for acute recurrent abdominal pain and vomiting 48 hours after discharge from exacerbation of chronic pancreatitis versus regional colitis. It was suspected Claimant was advancing diet too quickly.

Claimant was hospitalized from May 12, 2013 through May 16, 2013 for acute and chronic pancreatitis, hypothyroidism, hyponatremia, hypotension, history of smoking, history of alcohol abuse.

On May 10, 2013, Claimant was seen in the Emergency Room for acute abdominal pain and acute on chronic hypothyroidism.

On April 19, 2013, Claimant was seen in the Emergency Room for dental pain, likely a developing atypical abscess.

On April 4, 2013, Claimant was seen in the Emergency Room for hyperglycemia and radicular pain secondary to degenerative disease of the cervical spine.

Claimant was admitted to Harbor Hall on February 27, 2013 and sucussfully completed the 90 day residential program on May 28, 2013. Claimant then entered the [redacted] where he resided until January 19, 2014, when he was asked to leave because he was caught smoking in his room. Claimant's diagnoses included alcohol dependence and major depressive disorder.

Claimant was hospitalized from February 25, 2013 through February 28, 2013 for major depression moderate without psychosis and alcohol dependence.

On February 23, 2013, Claimant was seen in the Emergency Room for depression, suicidal ideation no plan.

On February 5, 2013, Claimant was seen in the Emergency Room for tooth pain.

On February 2, 2013, Claimant was seen in the Emergency Room for chronic dental infection.

On January 4, 2013, Claimant was seen in the Emergency Room for COPD exacerbation.

Records from Claimant's family practice physician's office documented treatment for a tooth infection and COPD in January 2013. Numerous x-ray, CT, and ultrasound reports from June 2012 through February 2013 were included.

On December 26, 2012, Claimant was seen in the Emergency Room for COPD exacerbation and anxiety reaction.

On December 16, 2012, Claimant was seen in the Emergency Room for COPD flare.

On November 29, 2012, Claimant was seen in the Emergency Room for COPD exacerbation, chronic pain and GERD.

On October 30, 2012, Claimant was seen in the Emergency Room for COPD and chronic pain exacerbation.

On October 17, 2012, Claimant was seen in the Emergency Room for COPD exacerbation.

On September 30, 2012, Claimant was seen in the Emergency Room for chronic pain and COPD flare.

On September 24, 2012, Claimant was seen in the Emergency Room for vomiting, alcohol abuse, and chronic pancreatitis.

On September 19, 2012, Claimant was seen in the Emergency Room for alcohol intoxication.

On August 24, 2012, Claimant was seen in the Emergency Room for alcohol intoxication and chest pain.

On August 3, 2012, Claimant was seen in the Emergency Room for colitis.

On August 2, 2012, Claimant was seen in the Emergency Room for COPD exacerbation and GERD.

On July 9, 2012, Claimant was seen in the Emergency Room for weakness or fatigue.

On July 2, 2012, Claimant was seen in the Emergency Room for COPD flare.

On June 25, 2012, Claimant was seen in the Emergency Room for contusion of sacrum/coccyx.

Claimant was hospitalized from June 17, 2012 through June 19, 2012 for abdominal pain, acute colitis, COPD, history of ETOH abuse, and history of nicotine abuse.

Claimant was hospitalized from April 30, 2012 through May 2, 2012 for abdominal pain secondary to hemorrhagic gastritis, chronic alcohol abuse, nicotine abuse and COPD.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented medical evidence establishing that he does have some physical limitations on his ability to perform basic work activities. The medical evidence has established that the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The evidence confirms treatment/diagnosis/history of: gastric ulcer, anemia in setting of GI bleed, chronic pancreatitis, resolved acute renal failure, diabetes mellitus, hypothyroidism, COPD, alcohol abuse with recent detox and treatment, tobacco abuse, back pain, degenerative disease of the spine, GERD, colitis, chronic dental infection, non-cardiac chest pain, dizziness/vertigo, depression, and social anxiety disorder.

Listings 1.00 Musculoskeletal System, 3.00 Respiratory System, 5.00 Digestive System, and 12.00 Mental Disorders were considered in light of the objective evidence. Ultimately, the objective medical records establish some physical and mental impairments; however, the evidence does not meeting the intent and severity requirements of a listing, or its equivalent. Accordingly, the Claimant cannot be found disabled, or not disabled, at Step 3; therefore, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

Before considering the fourth step in the sequential analysis, a determination of the individual's residual functional capacity ("RFC") is made. 20 CFR 416.945. An individual's RFC is the most he/she can still do on a sustained basis despite the limitations from the impairment(s). *Id.* The total limiting effects of all the impairments, to include those that are not severe, are considered. 20 CFR 416.945(e).

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR

416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id*. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty to function 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, the evidence confirms treatment/diagnosis/history of: gastric ulcer, anemia in setting of GI bleed, chronic pancreatitis, resolved acute renal failure, diabetes mellitus, hypothyroidism, COPD, alcohol abuse with recent detox and treatment, tobacco abuse, back pain, degenerative disease of the spine, GERD, colitis, chronic

dental infection, non-cardiac chest pain, dizziness/vertigo, depression, and social anxiety disorder. Claimant has had numerous Emergency Room visits and multiple hospitalizations for these impairments as described above. However, the September 6, 2013 Consultative Medical Examination report documented: Claimant's weight was 149 pounds; Claimant had a normal gait and was able to ambulate without the use of any assistive devices; grip strength was full and digital dexterity was intact; and Claimant was able to bend forward, squat, and heel-toe walk without any difficulty. The x-ray reports from both before and after the September 6, 2013 document abnormalities with Claimant's spine. Physical, mental, exertional and non-exertional impairments have all be consider. After review of the entire record it is found, at this point, that Claimant maintains the residual functional capacity to perform at least unskilled, limited, light work as defined by 20 CFR 416.967(b). Limitations being avoidance of extreme heat, wetness, humidity, and pulmonary irritants as well as simple, repetitive tasks that do not require frequent interactions with others.

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 he/she can perform past relevant work. *Id*.; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3).

Claimant had no history of sustained fulltime employment in the past 15 years. In light of the entire record and Claimant's RFC (see above), it is found that Claimant is not be able to perform past relevant work. Accordingly, Claimant cannot be found disabled, or not disabled, at Step 4.

In Step 5, an assessment of Claimant's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 50 years old and, thus, considered to be closely approaching advanced age for MA-P purposes. Claimant has a 9$^{th}$ or 10$^{th}$ grade education and no history of sustained fulltime employment in the past 15 years. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In this case, the evidence confirms treatment/diagnosis/history of: gastric ulcer, anemia in setting of GI bleed, chronic pancreatitis, resolved acute renal failure, diabetes mellitus, hypothyroidism, COPD, alcohol abuse with recent detox and treatment, tobacco abuse, back pain, degenerative disease of the spine, GERD, colitis, chronic dental infection, non-cardiac chest pain, dizziness/vertigo, depression, and social anxiety disorder. Claimant has had numerous Emergency Room visits and multiple hospitalizations for these impairments as described above. The September 6, 2013 Consultative Medical Examination report documented: Claimant's weight was 149 pounds; Claimant had a normal gait and was able to ambulate without the use of any assistive devices; grip strength was full and digital dexterity was intact; and Claimant was able to bend forward, squat, and heel-toe walk without any difficulty. The x-ray reports from both before and after the September 6, 2013 document abnormalities with Claimant's spine. After review of the entire record it is found, at this point, that Claimant maintains the residual functional capacity to perform at least unskilled, limited, light work as defined by 20 CFR 416.967(b). Limitations being avoidance of extreme heat, wetness, humidity, and pulmonary irritants as well as limited to simple, repetitive tasks that does not require frequent interactions with others.

After review of the entire record, and in consideration of the 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 202.10,Claimant is found not disabled at Step 5.

The SDA program, which provides financial assistance for disabled persons, was established by 2004 PA 344. DHS administers the SDA program purusant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impariment 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 (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, the Claimant is found not disabled for purposes SDA benefits as the objective medical evidence also does not establish a physical or mental impairment that met the federal SSI disabiltiy standard with the shortened duration of 90 days. In light of the foregoing, it is found that Claimant's impairments did not preclude work at the above stated level for at least 90 days.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant not disabled for purposes of the MA and SDA benefit programs.

## DECISION AND ORDER

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

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 21, 2014

Date Mailed: May 21, 2014

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CL/hj

cc: