

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-32770  
Issue No.: 2009; 4031  
Case No.: [REDACTED]  
Hearing Date: August 26, 2013  
County: Wayne (19)

**HEARING ADMINISTRATIVE LAW JUDGE:** Jan Leventer

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the above-named Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on August 26, 2013, from Inkster, Michigan. Participants included the above-named Claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative (AHR). Shirley Castillo, Claimant's mother testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

It should be noted that the administrative judge who heard the case was not available to write the hearing decision. The hearing decision was randomly reassigned to be written by the administrative judge named at the bottom of this decision.

**ISSUE**

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

**FINDINGS OF FACT**

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

1. On [REDACTED]/12, Claimant applied for SDA and MA benefits, including retroactive MA benefits from [REDACTED]/2012.

2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On [REDACTED]/13, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).
4. On [REDACTED]/13, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED]/13, Claimant's mother (Claimant's former AHR) requested a hearing disputing the denial of MA benefits.
6. On [REDACTED]/13, SHRT determined that Claimant was not disabled, in part, by application of Medical Vocational Rule 203.28.
7. On [REDACTED]/13, an administrative hearing was held.
8. During the hearing, Claimant presented new medical records (Exhibits A1-A27).
9. On [REDACTED]/13, an updated hearing packet was forwarded to SHRT.
10. On [REDACTED]/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical Vocational Rule 203.28.
11. As of the date of the administrative hearing, Claimant was a 32 year old male with a height of 5'9" and weight of 160 pounds
12. As of the date of hearing, Claimant was a tobacco smoker with no known relevant history of alcohol or illegal substance abuse.
13. Claimant's highest education year completed was the 12<sup>th</sup> grade.
14. Claimant alleged disability based on impairments and issues including low cognitive function, scoliosis, back pain and seizures.

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

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

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

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

BEM 260 (7/2012) pp. 1-2

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

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

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

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

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

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2011 monthly income limit considered SGA for non-blind individuals is \$1,000. The 2012 income limit is \$1010/month.

Claimant testified that he last worked on [REDACTED]/12. Pay stubs from [REDACTED]/2012 were not presented. Claimant testified that he performed errands for his brother's landscaping business. Claimant also testified that he quit employment in [REDACTED]/2012 after a last day of work on [REDACTED]/12. No evidence was presented to contradict Claimant's testimony. Based on the presented evidence, it is improbable that Claimant performed SGA in [REDACTED]/2012 or in any month thereafter. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

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

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

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

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

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

A Three Year Re-Evaluation report (Exhibits A8-A13) dated [REDACTED]/98 was presented. The report noted that Claimant's intelligence was tested to determine Claimant's eligibility for special education services. The report noted that Claimant underwent Weschler Adult Intelligence Scale- Third Edition testing. The report noted that Claimant's verbal IQ was 82. The report noted that Claimant's performance IQ was 76. The report noted that Claimant's full-scale IQ was 77, placing Claimant in the 6<sup>th</sup> percentile. The report noted that Claimant performed a Weschler Individual Achievement Test. The report noted that Claimant's mathematical reason score of 65 placed him in the lowest percentile. Claimant's basic reading score placed him in the 4<sup>th</sup> percentile.

Hospital documents (Exhibits 37-40) from an admission dated [REDACTED]/04 was presented. It was noted that Claimant presented following four consecutive generalized tonic-clonic seizures.

Hospital documents (Exhibits A14-19) from an admission dated [REDACTED]/07 were presented. The hospital noted a principal diagnosis of Dilantin toxicity. The hospital noted that Claimant underwent a CT of the head which revealed no acute intracranial process.

Four treatment documents (Exhibits 25-28) were presented. On [REDACTED]/11 it was noted that Claimant had two previous hospitalizations due to Dilantin toxicity. On [REDACTED]/12, it was noted that Claimant had not had seizures and was feeling well though he continued to smoke. On [REDACTED]/12, it was noted that Claimant had tremors, most likely due to Dilantin toxicity. On [REDACTED]/12, a plan was noted that Claimant obtain a pillbox to be better compliant with the dosing regimen.

Hospital documents (Exhibits 12-22; 41-55) from an admission dated [REDACTED]/12 were presented. The hospital noted that Claimant presented with toxic levels of Dilantin. The hospital noted a principal diagnosis of Dilantin toxicity. The hospital noted that a CT scan of Claimant's head revealed no acute intracranial abnormality. The hospital noted that Claimant ambulated 500 feet with stand-by assistance and a single point cane; decreased cadence was noted with cane use. The hospital noted that Claimant negotiated up and down four stairs with stand-by-assistance and 1 HR. The hospital noted that Claimant was discharged after Dilantin levels were reduced. The hospital noted that Dilantin was discontinued and Keppra was started. The hospital noted a discharge date of [REDACTED]/12. The hospital noted that Claimant was scheduled for follow-up.

Hospital office visit documents (Exhibits 29-31) dated [REDACTED]/12 were presented. It was noted that Claimant had mild upper extremity tremors while at rest. It was noted that Claimant took (3) 100 mg doses of Dilantin within 24 hours in an attempt to get rid of a headache.

Hospital office visit documents (Exhibits 23-24) dated [REDACTED]/12 were presented. A diagnosis of neuropathy was noted. The hospital noted a 23-item problem list which included the following: depression, chronic headache, chronic seizure disorder, tobacco abuse, head trauma, ataxia and neurological deficit.

A Psychological Evaluation (Exhibits A20-A27) dated [REDACTED]/12 was presented. The evaluation was completed by a licensed psychologist with no previous history with Claimant. The evaluation noted that Claimant performed Weschler Adult Intelligence Scale- Fourth Edition (WAIS-IV) testing. The evaluation noted that Claimant's IQ was 63 which placed him in the 1<sup>st</sup> percentile. The evaluation noted that Claimant had poor motivation and attitude towards testing and that the results were a low estimate of Claimant's overall potential. The evaluation noted that Claimant chose to "pass" on several questions despite encouragement to guess. The evaluation noted that Claimant answered other question abruptly and appeared to show little effort. The evaluator noted that Claimant's poor motivation might be related to Claimant's alleged disability and that a medical history would have been helpful in assessing Claimant. The evaluator noted that Claimant did not seem to be a good candidate for full-time competitive employment, at that time. An Axis I diagnosis of factitious disorder was noted. Claimant's GAF was noted to be 45. A poor prognosis was noted.

Hospital documents (Exhibits A4-A7) from an admission dated [REDACTED]/12 were presented. The hospital noted that Claimant was diagnosed with Dilantin toxicity though Claimant adamantly denied taking Dilantin. The hospital noted that Claimant denied suicidal ideation. The hospital noted that Claimant complained of severe headaches and visual disturbances during his stay. The hospital noted that Claimant was discharged on 12/13/12 after Dilantin levels decreased. The hospital noted a recommendation of follow-up and psychiatric treatment.

A consultative examination report (Exhibits 32-36) dated [REDACTED]/13 was presented. It was noted that Claimant had a seizure in [REDACTED]/2012 and has dealt with them since he was 19 years old. The examiner noted Axis I diagnoses of learning disorder and a history of communicative disorder. A GAF of 60 was noted. The examiner noted that Claimant's ability to focus and sustain attention was intact though Claimant functioned at low levels. The examiner noted that Claimant's ability to understand and carry out instruction was intact though hampered by low levels of cognitive aptitude.

A Medical Examination Report (Exhibits A1-A2) form dated [REDACTED]/13 was presented. Claimant's physician noted that Claimant has normal gait but noted that his balance veers to the left. Claimant's physician noted that Claimant had hand tremors. Claimant's physician noted that Claimant's mood was anxious. The report was completed by a physician who noted a 10-year history of treating Claimant. Claimant's physician noted Claimant could occasionally lift less than 10 pounds but never more than 10 pounds. Claimant's physician noted that Claimant was limited to standing or walking to less than 2 hours in an 8-hour day due to balance issues. Claimant's physician noted that Claimant had limitations concerning comprehension, memory, sustaining concentration, following simple directions and social interaction.

Claimant testified that his hands are shaky. Claimant testified that this affects his ability to write. The medical evidence established that Claimant has hand tremors which have and/or will last for 12 months or longer.

Claimant testified that he obtained a high school diploma. Claimant testified that he attended many special education classes. Claimant testified that he has difficulty pronouncing words. Claimant testified that his math skills diminished after suffering seizures. Fifteen year old cognitive testing tended to verify low cognitive function; though the evidence was very old, it is reasonable to presume that Claimant still has some degree of cognitive impairments.

Claimant testified that he has scoliosis. Claimant estimated that he shrunk two inches because of scoliosis. There was no apparent evidence of any diagnosis or treatment for scoliosis. Scoliosis will not be considered as a basis of disability due to lack of evidence.

Claimant testified that multiple doctors recommend that Claimant use a cane. Claimant's mother testified that she witnessed Claimant fall multiple times. Claimant testified he wants to prove them wrong. Claimant testified that he often loses his balance. Claimant testified that his balance is especially bad since 2007 when he had Dilantin toxicity which affected his left side. Claimant testified that he often falls. There was evidence of ataxia and reported falls and balance problems, which have and/or will last 12 months or longer.

Claimant testified that he has had neuropathy for the past year. During the hearing, Claimant conceded that no evidence was presented to establish neuropathy.

Claimant testified that he suffers depression and isolates himself. Claimant testified that he is not in counseling. The lack of psychological treatment makes it difficult to presume the extent and duration of Claimant's psychiatric problems. The low GAF and poor prognosis cited by an examining psychologist are supportive in finding that Claimant's psychological symptoms are severe and likely to last for 12 months or longer.

Claimant testified that he gets migraine headaches. Claimant testified that if he takes medication, his pain level is 5/10. Claimant testified that he had an approximate 15 minute standing limit. Claimant testified that he is restricted to sitting for five minute periods before getting jumpy and ten minutes before feeling pain.

Claimant's testimony was consistent with the presented evidence. It is found that Claimant established having significant impairments that have and/or will last 12 months or longer.

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

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

A listing for intellectual disability (Listing 12.05) was considered based on Claimant's IQ test score. The listing was rejected because of a failure to establish a valid IQ score of less than 70. Claimant's score of 63 was considered invalid because of Claimant's failure to cooperate in the testing process.

Listings for epilepsy (Listings 11.02 and 11.03) due to a failure to establish a pattern of seizures (which meet the listing requirements) despite three months of prescribed treatment.

A listing for cerebral trauma (Listing 11.18) was not considered because the only presented radiology of Claimant's brain failed to establish trauma. Thus, Claimant does not meet the requirements for listing consideration.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR



416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

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

Claimant testified that he performed labor work for his brother's landscaping company. Claimant testified that his boss was very patient and accommodating with Claimant. Claimant testified that his job required lifting up to 100 pounds. Claimant also testified that some days he spent an entire day standing. Claimant testified that he is unable to perform the lifting or standing necessary to perform this past employment.

Claimant testified that he worked for a vehicle dealership. Claimant testified that his duties involved tire rotation and oil changes. Claimant testified that he tore a bicep while carrying a table. Claimant testified that he is unable to perform the lifting necessary to perform this past employment.

Claimant testified that he was employed as a porter. Claimant testified that he had difficulty completing paperwork because he lacked the requisite concentration. Claimant testified that the paperwork drove him crazy. Claimant testified that he lacks the focus to perform his past employment.

Claimant testified that he was also a driver. Claimant testified he can no longer drive because of seizures.

Claimant's testimony that he cannot perform his past employment was consistent with the medical evidence. Accordingly, the analysis may proceed to step five.

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

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

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

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

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

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

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

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

rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

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

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform sedentary employment. For sedentary employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

The medical evidence established that Claimant has hand tremors. It was not clear how severe Claimant's hand tremors are. The evidence tended to establish that the tremors are relatively constant though fluctuating in degree of severity.

The medical evidence tended to establish that Claimant had intellectual obstacles. Though Claimant was uncooperative in taking an intelligence test in 2012, his low score was considered to be within the range of his potential. The poor prognosis cited by the examiners tended to establish that Claimant would have difficulty performing any employment.

Claimant's mother testified that she dispenses medications to Claimant after his last Dilantin toxicity. It was established that Claimant had multiple hospitalization for Dilantin toxicity. This evidence tended to establish poor cognitive functioning by establishing that Claimant could not appropriately regulate his medication intake.

Claimant's intellectual examiners diagnosed Claimant with factitious disorder. This diagnosis is a problem for Claimant. Factitious disorder is known to be someone who exaggerates or fakes symptoms. The diagnosis tends to lessen the credibility of Claimant's testimony.

Evidence from Claimant's treating physician and hospital records established balance problems for Claimant. Claimant's physician restricted Claimant to 10 pounds of lifting and standing/walking less than 2 hours or less in an 8-hour day. These restrictions are consistent with an inability to perform sedentary employment.

Though Claimant's factitious disorder diagnosis is problematic to a disability finding, the evidence established severe cognitive and physical restrictions. Vocational evidence was not presented, but it is improbable that Claimant can perform any employment based on his restrictions. Accordingly, it is found that Claimant is disabled and that DHS improperly denied Claimant's MA benefit application.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 at 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1.

A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- receives other specified disability-related benefits or services, see Other Benefits or Services below, 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; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

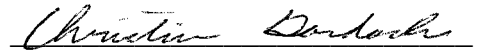
It has already been found that Claimant is disabled for purposes of MA benefits based on a finding that is unable to perform any type of employment. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly denied Claimant's application for SDA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's MA and SDA benefit application dated [REDACTED]/12, including retroactive MA benefits from [REDACTED]/2012
- (2) evaluate Claimant's eligibility for MA and SDA benefits subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for benefits.

The actions taken by DHS are **REVERSED**.

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

Date Signed: 1/2/2014

Date Mailed: 1/2/2014

**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

CG/hw

cc:

