

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

IN THE MATTER OF:



Reg. No.: 2013-62436
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 31, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on October 31, 2013, from Taylor, Michigan. Participants included the above-named Claimant. [REDACTED] appeared via telephone as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) for the reason 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], Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED].
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).

4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED], Claimant's authorized representative requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant did not have a severe impairment.
7. On [REDACTED], an administrative hearing was held.
8. During the hearing, Claimant waived the right to receive a timely hearing decision.
9. During the hearing, Claimant and DHS waived objections to allow the admission of any additional documents considered and forwarded by SHRT.
10. On [REDACTED], an Updated Interim Order Extending the Record was mailed to Claimant to allow 60 days from the date of hearing to submit treating physician documents; DHS was also given 60 days to arrange for the submission of a report stemming from a consultative psychological examination.
11. On [REDACTED], Claimant submitted additional medical documents (Exhibits A1-A91).
12. On [REDACTED], DHS submitted additional medical documents (Exhibits B1-B7).
13. On [REDACTED], an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by the State Hearing Review Team was subsequently issued.
14. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 203.28 (see Exhibits C1-C2).
15. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
16. As of the date of the administrative hearing, Claimant was a 48 year old male with a height of 5'7" and weight of 140 pounds.
17. Claimant has no known relevant history of alcohol or illegal substance abuse.
18. Claimant's highest education year completed was the 12th grade.
19. As of the date of the administrative hearing, Claimant had no health insurance.

20. Claimant alleged disability based on impairments and issues including lower back pain (LBP), neck pain, optical restrictions, torn muscles and unspecified psychological problems.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's former AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's former AHR's request was granted and the hearing was conducted accordingly.

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 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

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

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the

severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

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

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

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th 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 (1st 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 (1st 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 background of Claimant's medical history and a summary of the relevant submitted medical documentation.

Claimant alleged disability based on physical and psychological problems. Claimant testified that he has suffered chronic back pain since a motor vehicle accident in 1997. The accident occurred when a truck hit Claimant's truck from behind after Claimant had to make a sudden stop (see Exhibit A86). Claimant also alleged a history of vision problems since he was a child. Claimant's AHR believes that Claimant has multiple undiagnosed psychological problems and fought to have Claimant undergo a psychological examination; the examination was ordered and the examination report was presented as an exhibit.

Various medical records (Exhibits A48-A85) were presented. The records ranged in year from 1998-2009. An MRI report (Exhibit A84) dated [REDACTED] noted minimal disc

desiccation and slight disc bulging at L3-L4 and L4-L5. On [REDACTED], Claimant's treating physician noted that Claimant reached maximum medical improvement and there were no changes from a previous MRI of the lumbar. Claimant's medication history (Exhibits A48-A58) verified regular prescriptions for Vicodin.

A consultative physical examination report (Exhibits A86-A91) dated [REDACTED] was presented. The examining physician opined that Claimant probably has lumbar and cervical radiculopathy. The examiner also noted that Claimant "certainly qualifies" for a chronic pain problem, though it was implied that Claimant could benefit from pain medication. A positive straight-leg raising test was noted. The examiner determined that Claimant could perform all 23 various work abilities, which included the following: sitting, standing, bending, stooping, writing, pulling, and carrying. Decreased ranges of motion were noted in the following: all cervical spine movements, all lumbar spine movements, all hip movements and knee flexion.

Hospital documents (Exhibits 13-17; A4-A26) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of a right eye laceration with a pain level of 10/10. A complaint of neck pain was also noted. It was noted that Claimant ambulated without gait disturbance. A diagnosis of globe rupture was noted.

Hospital documents (Exhibits 18-28; A28-A46) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of breathing difficulties. A history significant for tobacco dependence was noted. Impression of acute exacerbation of COPD, acute tracheal bronchitis and tobacco dependence were noted. It was noted that Claimant received breathing treatments and medications.

A physician letter (Exhibit A2) dated [REDACTED] was presented. The physician noted that Claimant had a sight threatening condition, which will lead to permanent vision loss in Claimant's right eye. A diagnosis of a cataract after a globe rupture was noted.

A consultative mental examination report (Exhibits B1-B7) dated [REDACTED] was presented. The examiner noted that Claimant reported the following symptoms: hopelessness, sadness, helplessness and panic attacks (4-7 per week). Claimant reported sometimes spending up to four days in bed. It was noted that Claimant reported PTSD symptoms related to his motor vehicle accident and life-threatening encounters during a period of homelessness. Claimant reported that he cannot focus for any length of time due to pain. It was noted that Claimant used to live with his mother but that she moved out and rented an apartment due to their hostile relationship. The examiner noted the following observations about Claimant: cooperative and polite, appropriate dress and grooming, depressed and anxious mood, good eye contact, fair memory, attentive and able to concentrate for short periods, intact judgment and insight and average or above average intelligence. The examiner recommended that Claimant immediately seek counseling when feasible. An Axis I primary diagnosis of depression (recurrent and moderate) was noted. Claimant's GAF was noted as 41. A fair prognosis was provided. It was noted that Claimant could carry out and understand instructions.

The examiner opined that Claimant would have difficulty dealing with normal work stressors. Claimant was deemed to not be a malingerer.

It was verified that Claimant suffered a severe back injury in 1997 resulting in significant work restrictions. The only semi-recent medical evidence since Claimant's injury was a consultative examination which verified that Claimant had multiple restrictions to cervical and lumbar ranges of motion. Based on the presented evidence, Claimant has walking and lifting restrictions due to back pain.

It was also verified via consultative examination that Claimant has significant psychological impairments. A psychological examiner noted that Claimant has difficulties with social interaction and concentration. It is found that Claimant has severe psychological impairments.

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

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

Claimant's most prominent impairment appears to be depression. Depression is an affective disorder covered by Listing 12.04 which reads as follows:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
 1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration

OR

- C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:
 1. Repeated episodes of decompensation, each of extended duration; or
 2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
 3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

A consultative examiner determined that Claimant's GAF was 41. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF of 41-50 is within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's GAF is suggestive of marked restrictions. Despite a low GAF, multiple problems exist for determining that Claimant's impairments rise to the level of the affective disorder listing.

The consultative examiner opined that Claimant was not a malingerer. The physician that originally treated Claimant's back implied that Claimant was a malingerer when it was stated that on 1/16/98 that Claimant "needed to start school or get on with his life". Claimant's lack of work, lack of education and lack of mental health treatment since 1998 tend to support a finding that Claimant is a malingerer. Some consideration is given to Claimant's lack of finances and insurance, however, low income and free psychological treatment is known to exist. Claimant's failure to pursue any treatments is consistent with finding that Claimant's marked restrictions would diminish with efforts from Claimant.

Claimant has no previous psychological hospitalizations. The lack of previous hospitalizations is also consistent with not meeting a SSA mental health listing. Based on the presented evidence, Claimant's depression does not meet the requirements for Listing 12.04.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's back pain complaints. Radiology verifying a compromised nerve root was not presented. Claimant failed to meet the spinal disorder listing.

A listing for visual acuity (Listing 2.02) was considered based on a loss of right eye vision. This listing was rejected due to a failure to establish a corrected eyesight of worse than 20/200 in Claimant's worst eye.

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 has not performed any SGA within the last 15 years. As Claimant has no relevant work history amounting to SGA, it can only be found that Claimant cannot return to perform SGA and the disability 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 nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

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

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.

Claimant's actions during the hearing were that of a someone in pain and implied an inability to perform any type of employment. Claimant testified that he does not take any type of pain medication. Claimant testified that he tried medications in the past, but none reduced his pain. Claimant's testimony was not particularly persuasive when factoring Claimant's failure to pursue any treatment within the last five years.

A functional capacity assessment (Exhibits A72-A83) from 1997 noted that Claimant could perform light employment. A consultative examiner determined that Claimant had multiple movement restrictions, but the examiner also determined that Claimant could perform several activities without restriction. It is reasonably possible that the examiner's failure to cite restrictions was an oversight considering that the examiner also found that Claimant had cervical and lumbar radiculopathy; despite this possibility, Claimant did not present any treating source or radiological evidence to discount the examiner's opinions. The presented medical evidence was suggestive that Claimant can perform sedentary employment.

A consultative examiner opined that Claimant would have difficulty dealing with normal work stressors and had restrictions with concentration. Claimant's restrictions were made in the context of failing to seek out psychological treatment, psychological counseling or pain medication. Claimant's lack of health insurance would make it more difficult for Claimant to pursue treatment, but far from impossible. Though Claimant may have psychological restrictions, treatment and/or medication would likely improve

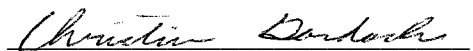
Claimant to the point of having the ability to perform, at least, simple and repetitive employment. The finding is consistent with the fair prognosis found by the consultative examiner.

Claimant's loss of vision in his right eye is concerning. During the hearing, Claimant credibly testified that he could barely see out of his right eye. No evidence was presented to suggest a left eye impairment. Claimant's vision, though impaired in one eye, should be sufficient to perform employment. Based on the presented evidence, Claimant is found capable of performing sedentary employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school), employment history (none), Medical-Vocational Rule 201.21 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated [REDACTED], including retroactive MA benefits from 10/2012, based on a determination that Claimant is not disabled. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 3/18/2014

Date Mailed: 3/18/2014

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:

