

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13667
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: February 10, 2014
County: Wayne (35)

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 February 10, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) 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 Social Security Administration (SSA) benefits.
2. On an unspecified date in [REDACTED] Claimant applied for MA and SDA benefits.
3. Claimant's only basis for MA and SDA benefits was as a disabled individual.

4. On an unspecified date, DHS denied Claimant's application for MA and SDA benefits.
5. On an unspecified date within 90 days of the DHS denial, Claimant submitted a hearing request to DHS.
6. On [REDACTED] Claimant reapplied for MA and SDA benefits.
7. On [REDACTED] the SSA Appeals Council mailed Claimant a denial of SSA benefits.
8. On [REDACTED] the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).
9. On [REDACTED] DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.
10. On [REDACTED] Claimant requested a hearing disputing the denial of MA and SDA benefits.
11. On [REDACTED] SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant can perform past relevant work.
12. As of the date of the administrative hearing, Claimant was a 54-year-old male with a height of 5'8" and weight of 170 pounds.
13. Claimant has no known relevant history of alcohol or illegal substance abuse.
14. Claimant's highest education year completed was the 12th grade.
15. As of the date of the administrative hearing, Claimant was an Adult Medical Program recipient.
16. Claimant alleged disability based on impairments and issues including uncontrolled hypertension (HTN), bad teeth, back pain and concentration difficulties.

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, a dispute concerning application date must be addressed. Claimant contended that he submitted an application to DHS in 6/2012 which was denied by DHS. Claimant also testified that he timely appealed the application and that DHS failed to process Claimant's hearing request. Claimant's hearing request appeared to only raise a dispute concerning an application dated 4/10/13. For purposes of this decision, Claimant's testimony will be accepted as accurate. It is found that Claimant requested a hearing to dispute his MA eligibility from an application from 6/2012.

Eligibility for MA based on disability or blindness does not exist once SSA's determination is final. BEM 260 (7/2012), p. 3. SSA's determination that disability or blindness does not exist for SSI is final for MA if:

- The determination was made after 1/1/90, and
- No further appeals may be made at SSA; or
- The client failed to file an appeal at any step within SSA's 60 day limit, and
- The client is not claiming:
 - A totally different disabling condition than the condition SSA based its determination on, or
 - An additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on.

Id., pp. 3-4.

An SSA administrative hearing decision (Exhibits 585-597) dated [REDACTED] was presented. The hearing decision verified that SSA determined Claimant "not disabled" following an administrative hearing.

A Notice of Appeals Council (Exhibits 578-584) dated [REDACTED] was presented. It was noted that Claimant's appeal of the unfavorable hearing decision was denied.

The Appeals Council is the final appeal available within the SSA. The Appeals Council considers additional medical evidence (see Exhibit 578). Based on the denial by the Appeals Council following an unfavorable administrative hearing decision, it is found that Claimant is not disabled through [REDACTED], the last full month of disability considered by the Appeals Council.

Claimant testified that his medical problems have increased since the SSA denial. The below summarized medical records are consistent with Claimant's testimony. It is found that Claimant's health has deteriorated to justify a consideration of disability beginning [REDACTED], the first full benefit month not considered by SSA in the disability denial.

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 2012 monthly income limit considered SGA for non-blind individuals is \$1,010.

Claimant denied performing any employment since the date of the MA application. Some of Claimant's employment history (Exhibits 11-21) was presented. The employment history showed that Claimant last received wages on [REDACTED]. Without any wages since the first potential month of disability (7/2013), it can only be concluded that Claimant has not performed SGA since [REDACTED]. 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 the relevant submitted medical documentation.

Hospital documents (Exhibits 64-87) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of a headache, ongoing for three days. It was noted that Claimant ran out of his blood pressure medications 3-4 days before the hospital encounter. It was noted that the hospital increased Claimant's lisinopril dosage and that Claimant's headache improved after taking extra strength Tylenol 2 tablets. It was noted that Claimant was discharged on the same date of presentation.

Hospital documents (Exhibits 88-264) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with a complaint of chest pain. It was noted that Claimant's blood pressure was stable when taking medications (see Exhibit 107). It was noted that Claimant denied shortness of breath. Final diagnoses were noted to be acute chest pain, chronic hypertension and chronic kidney disease stage IV. It was noted that Claimant's blood pressure at admission was 203/100 and that Claimant needed a refill of blood pressure medication. It was noted that Claimant's chest pain improved with Toradol. A date of discharge of [REDACTED] was noted.

Hospital documents (Exhibits 265-572) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of dizziness, impaired speech and chest pain. It was initially noted that a CAT scan of Claimant's head was found to be normal; a subsequent impression noted mild frontal bilateral atrophy. Upon examination, Claimant's language and comprehension were appropriate; intermittent stuttering was noted, especially when Claimant specifically talked about stuttering. Claimant's blood pressure was noted to be 200/113 upon presentation. It was noted that Claimant received medications upon discharge. A discharge date of [REDACTED] was noted.

Hospital records (Exhibits 22-63) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of chest pain, ongoing since 2008. Claimant also complained of low back pain, ongoing for five years. Complaint of shortness of breath was noted as resolved at admission. It was noted that a stress test was performed in [REDACTED], which showed no evidence of ischemia. It was noted that a chest x-ray showed no acute cardiopulmonary process (see Exhibit 63). A final

impression of acute epigastric pain and suspected gastritis was noted. It was noted that Claimant received medications and was discharged on his date of presentation.

A Medical Examination Report (Exhibits 8-10) dated [REDACTED] from Claimant's treating physician was presented. The physician noted a one-week history of treating Claimant. The physician provided diagnoses of HTN, hyperlipidemia and chronic kidney disease (CKD). An impression was given that Claimant's condition was deteriorating. It was noted that Claimant had difficulty controlling blood pressure. It was noted that Claimant cannot perform any of the listed repetitive actions, which included the following: simple grasping, fine manipulating and operating foot/leg controls. It was noted that Claimant cannot meet household needs.

A consultative mental examination report (Exhibits 573-577) dated [REDACTED] was presented. It was noted that Claimant stammered as he spoke; it was also noted that the examiner "wondered about the genuineness" of Claimant's presentation. It was noted that Claimant reported back pain, chest pain, high blood pressure, rotting teeth and failing kidneys. It was noted that Claimant had no history of psychiatric hospitalization or treatment. It was noted that the Claimant reported audio hallucinations. A diagnosis of major depressive disorder was noted. A fair prognosis was noted.

Claimant alleged disability, in part due to psychological problems. Claimant testified that he has difficulty concentrating for extended periods. Claimant receives AMP benefits; thus, it is presumed that Claimant has access to some form of treatment. It is reasonable to expect that Claimant's concentration would increase with medication and/or treatment. Claimant's lack of verified psychological treatment raises concerns whether Claimant's psychological impairments would last 12 months.

The opinion of the consultative examiner is the best evidence of Claimant's psychological capabilities. The examiner opined that Claimant would have difficulty in work other than of a relatively simple type. The examiner also opined that such employment would have to require little, if any, independent judgment or decision-making. Based on the presented evidence, it is found that Claimant has concentration and decision making impairments.

Claimant also alleged disability based on exertional impairments. Claimant testified that his back pain restricts him from performing employment. Claimant failed to verify any treatment for back pain. No spinal radiology was presented. Without any medical evidence of back pain, it cannot be a factor in a disability decision.

Multiple hospital encounters related to hypertension were verified. A diagnosis of disease is consistent with finding that Claimant's hypertension likely causes severe restrictions to Claimant's physical abilities (e.g. walking and lifting). Though Claimant can better control his hypertension, he cannot undo the damage that it has done to his body. It is found that Claimant established severe exertional impairments. As it was found that Claimant established multiple impairments to performing 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 affective disorder (Listing 12.04) was considered based on a diagnosis of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's back pain complaints. This listing was summarily rejected due to a lack of evidence of spinal disorders.

A listing for renal function impairment (Listing 6.02) was considered based on diagnoses for kidney failure. The listing was rejected because Claimant is neither receiving dialysis, eligible for kidney transplantation, nor verified as having persistent elevation of serum creatinine to 4 mg per deciliter.

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.

Employment history documents (Exhibits 598-611) for Claimant were presented. The employment history included the Department of Transportation (DOT) physical demand classification for three of Claimant's past full-time jobs.

Claimant had previous employment as a floor care worker in a nursing home. Claimant testified that his duties included monitoring nursing home patients. Claimant testified that he is unable to perform the lifting and walking required for this employment.

Claimant had previous temporary employment performing general labor and janitor duties. DOT described the employment as having "medium" physical demands. Claimant testified that he is unable to perform the lifting and walking required for this employment.

Claimant had previous employment as a security guard. DOT described the employment as having "light" physical demands. Claimant testified that half of his job involved walking and half required sitting. Claimant testified that the job required completing paperwork, which he had difficulty performing. Claimant also testified that his handwriting is very poor after he had a stroke and that he doubts that he could perform his past security guard employment.

Claimant's testimony that he cannot perform any of his past relevant job was credible and consistent with the medical evidence. It is found that Claimant cannot perform his past relevant employment and 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 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)

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform light employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

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.

Given Claimant's repeated hospital encounters, multiple diagnoses for uncontrolled HTN and Claimant's psychological problems, it is doubtful that Claimant can perform most types of light employment. When factoring Claimant's limited ability to concentrate

and writing difficulties following his stroke, Claimant's employment opportunities become even slimmer. It is plausible that a very small number of light jobs exist which Claimant could perform, however, no occupational evidence was presented by DHS.

Claimant's kidney doctor noted that Claimant could never lift a weight of less than 10 pounds and that Claimant could only stand and/or walk less than two hours in an eight-hour workday (see Exhibit 9). The physician's restrictions are consistent with finding that Claimant cannot perform light employment. Based on the presented evidence, it is found that Claimant is restricted to performing sedentary employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school- no direct entry into skilled employment), employment history (unskilled), Medical-Vocational Rule 201.12 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found Claimant to be not disabled for purposes of MA benefits.

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 (1/2013), p. 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 (1/2012), p. 1.

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

- 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).

Id.

In the above analysis it was determined that Claimant was not a disabled individual through [REDACTED], based on an unfavorable SSA decision. The unfavorable decision was based on a finding that Claimant could perform his past employment as a security guard. It was further found that Claimant is disabled, effective [REDACTED], for purposes of MA benefits based on application of Medical-Vocational Rule 201.12. Both findings apply equally for Claimant's SDA benefit application. It is found that Claimant is not a disabled individual for purposes of SDA eligibility through [REDACTED] but Claimant is a disabled individual for purposes of SDA eligibility, effective [REDACTED].

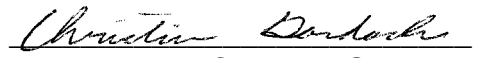
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied MA and SDA benefits to Claimant for the period of [REDACTED] through [REDACTED]. The actions taken by DHS are **PARTIALLY AFFIRMED**.

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 and SDA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA and SDA benefit application dated [REDACTED];
- (2) evaluate Claimant's eligibility for MA and SDA benefits subject to the finding that Claimant is a disabled individual beginning [REDACTED];
- (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 future benefits.

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


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

Date Signed: 3/4/2014

Date Mailed: 3/4/2014

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:

