

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

IN THE MATTER OF:

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Reg. No.: 2013-61180
Issue Nos.: 2009, 4009
Case No.: ██████████
Hearing Date: December 18, 2013
DHS County: Wayne County (49)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Medical Contact Worker and ██████████ Medical Contact Worker.

ISSUE

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

FINDINGS OF FACT

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

1. On September 26, 2012, the Claimant submitted an application for public assistance seeking MA-P and SDA benefits.
2. On July 22, 2013, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit 1)
3. The Department notified the Claimant of the MRT determination on July 24, 2013.

4. On July 30, 2013, the Department received the Claimant's timely written request for hearing.
5. On September 26, 2013, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
6. An Interim Order was issued December 20, 2013. The new evidence was submitted to the State Hearing Review Team on February 21, 2014.
7. On April 11, 2014, the State Hearing Review Team found the Claimant not disabled.
8. The Claimant alleges physical disabling impairments due to right shoulder, right hand upper extremity pain secondary to gunshot injuries, carpal tunnel syndrome and ulnar mononeuropathy. The Claimant also alleged impairment due to prior gunshot wounds to the right hip and back resulting in pain and weakness.
9. The Claimant alleged mental disabling impairments due to stress and anxiety.
10. At the time of hearing, the Claimant was 49 years old with a [REDACTED] birth date. Claimant is 5'7" in height; and weighed 152 pounds.
11. The Claimant completed the high school but does not write or do math well. The Claimant's past work was performing general labor for a laundry service sorting laundry, a short order cook and maintenance janitorial work.

CONCLUSIONS OF LAW

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

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

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

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

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

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

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

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;

4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

Id.

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

The Claimant alleges physical disabling impairments due to right shoulder, right hand upper extremity pain secondary to gunshot injuries, carpal tunnel syndrome and ulnar mononeuropathy. The Claimant also alleged impairment due to prior gunshot wounds to the right hip and back resulting in pain and weakness.

The Claimant alleges mental disabling impairments due to stress and anxiety.

A summary of the Claimant's medical evidence presented follows.

The Claimant's treating physician completed a Medical Examination Report dated 12/20/13. The Doctor's specialty is neurology. The current diagnosis was right shoulder, right hand upper extremity pain secondary to gunshot injuries, carpal tunnel syndrome and ulnar mononeuropathy. The exam notes indicate decreased range of motion in right shoulder, scars around right upper limb with pain, tingling and numbness. The Claimant's condition was stable and limitations were imposed with respect to the right hand, with only occasionally lifting less than 10 pounds, standing and or walking about 6 hours in an 8 hour workday, and sitting about 6 hours in an 8 hour workday. The restrictions were based upon scars from gunshot wounds, hyperalgesia around scars, and decreased shoulder range of motion. Assistive Devices were not deemed necessary. The neurologist indicated that the Claimant could not grasp, reach, push or pull or fine manipulate with the right hand/arm.

The Claimant was seen by his neurologist on August 28, 2013 for follow up and neurologic evaluation. The Claimant had been in excruciating pain due to having run out of medications. The notes indicate that the Claimant reports his hips go out and he

falls about 2 to 3 times a month. Electrodiagnostic testing results show he has moderate carpal tunnel syndrome and a right sided ulnar neuropathy in addition to the pain from his gunshot wound. A comprehensive neurologic exam was performed and the exam was essentially normal except noted he could not flex fingers to complete a fist on the right hand and cannot extend them fully. Gait was antalgic, he is unsteady while tandem walking. A large scar in the right buttock, tender to touch from prior injury. There is a scar in the right palm and on the right leg, both of which are tender to touch, with tingling electrical sensation to pin prick. Reflexes were grade 2 and symmetric throughout biceps, triceps, brachioradialis, knees and ankles. The assessment noted neuralgic pain secondary to multiple gunshot wounds, with moderate carpal tunnel syndrome and right ulnar neuropathy.

On July 31, 2012, the Claimant was seen in the emergency room having been shot by a single bullet that went through the right hand. The examiner's notes note right hand shows significant damage from a single bullet wound through the hand. The thumb is separated at the IP joint with the head of the proximal phalanx visible and the tip of the finger separated. Fourth finger is also dislocated at the MCP joint and does not sit appropriately in the joint capsule, patient unable to make a fist. There is a through and through wound at the base of the fourth finger. The Claimant received treatment including removal of the nail bed and bone fragments in the thumb and use of skin from the tip of the thumb to form a flap and cover the proximal phalanx. The procedure was performed and the Claimant was released with antibiotics. Splints were placed to keep the joints stable.

The Claimant was seen by his neurologist on April 29, 2013. At the time, it was noted that the main problem was neuralgic pain following multiple gunshot wounds and his right upper extremity. Based on electrical diagnostic testing moderate carpal tunnel and mononeuropathy was noted.

A consultative mental status examination was performed on August 26, 2013. The exam noted that the patient affect of expression was blunted and mood was mildly depressed, patient was alert, oriented 3x. The examiner noted as regards intellectual functioning that deficits may exist in sustained attention and concentration abilities. The Medical Source Statement concluded that patient is able to acquire and use information, has ability to attend to task presented. The patient was able to interact appropriately with examiner and examination. Patient could care for self, ask questions and follow simple instructions. The examiner concluded that the patient would need a public guardian to manage his own funds, without further explanation. The diagnosis was adjustment disorder, alcohol dependency and antisocial personality disorder and a GAF of 60.

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

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Claimant asserts disabling impairments due to right shoulder, right hand upper extremity pain secondary to gunshot injuries, carpal tunnel syndrome and ulnar mononeuropathy. The Claimant also alleged impairment due to prior gunshot wounds to the right hip and back resulting in pain and weakness. The Claimant has also alleged mental impairments due to anxiety and stress.

Listing 11.14 peripheral neuropathies the requirements of which are listed below was reviewed and it was determined the Listing was not met as it requires disorganization of motor function in two extremities. The medical evidence available supports dysfunction in the right hand only and does not support findings with respect to dysfunction in the Claimant's lower extremities.

11.14 *Peripheral neuropathies.* With disorganization of motor function as described in 11.04B, in spite of prescribed treatment.

B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C).

11.00 C *Persistent disorganization of motor function* in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands and arms.

Likewise Listing 1.02 Major Dysfunction of a Joint was also examined and it was determined that the requirements that one major peripheral joint in each upper extremity

be affected. Here the Claimant has only one upper extremity affected and thus the listing 1.02 is not met.

Section

1.02 Major dysfunction of a joint(s) (due to any cause): Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively, as defined in 1.00B2c.

1.00B2c. What we mean by inability to perform fine and gross movements effectively. Inability to perform fine and gross movements effectively means an extreme loss of function of both upper extremities; i.e., an impairment(s) that interferes very seriously with the individual's ability to independently initiate, sustain, or complete activities. To use their upper extremities effectively, individuals must be capable of sustaining such functions as reaching, pushing, pulling, grasping, and fingering to be able to carry out activities of daily living. Therefore, examples of inability to perform fine and gross movements effectively include, but are not limited to, the inability to prepare a simple meal and feed oneself, the inability to take care of personal hygiene, the inability to sort and handle papers or files, and the inability to place files in a file cabinet at or above waist level.

Lastly, Listing 12.08 Personality Disorders was reviewed in light of the Consultative Examination. It is noted that the Claimant has never treated for his diagnosed adjustment disorder, alcohol dependency and antisocial personality disorder and on evaluation had a GAF score of 60. A GAF score in the range of 51-60 notes Moderate symptoms OR any moderate difficulty in social, occupational or school functioning.

12.08 provides: personality disorder A personality disorder exists when personality traits are inflexible and maladaptive and cause either significant impairment in social or occupational functioning or subjective distress. Characteristic features are typical of the individual's long-term functioning and are not limited to discrete episodes of illness.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied.

A. Deeply ingrained, maladaptive patterns of behavior associated with one of the following:

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1. Seclusiveness or autistic thinking; or
2. Pathologically inappropriate suspiciousness or hostility; or
3. Oddities of thought, perception, speech and behavior; or
4. Persistent disturbances of mood or affect; or
5. Pathological dependence, passivity, or aggressivity; or
6. Intense and unstable interpersonal relationships and impulsive and damaging behavior;

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.

A careful review of the medical evidence was made and it was found that the listing was not met as there is insufficient evidence and treatment to support such a finding. . Therefore, the Claimant cannot be found disabled, or not disabled, at Step 3. Accordingly, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are 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.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967.

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

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

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty function due to nervousness, anxiousness, or depression;

difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (e.g., 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.*

The Claimant's prior work history consists of employment performing general labor for a laundry service sorting laundry, a short order cook and maintenance janitorial work. Most of the labor jobs involved lifting ranging from 25 to 50 pounds varying with the jobs.

In light of the Claimant's testimony and records, and in consideration of the Occupational Code, the Claimant's prior work is classified as unskilled medium work.

The Claimant testified that he is able to walk about a half block. The Claimant testified that he could not bend at the waist to the right and had very little range of motion, cannot squat, and he cannot tie his shoes. The Claimant can shower and dress himself with some assistance with dressing. The Claimant testified that his right hand goes numb and is in pain. The Claimant further testified that the heaviest weight he could carry was limited due to his use of a cane and cannot carry with the right hand. The Claimant stated he could stand 20 to 30 minutes and could sit 30-45 minutes. The Claimant can cook microwave meals. The Claimant's neurologist completed a DHS 49. and imposed the following restrictions. Limitations were imposed with respect to the right hand, with only occasionally lifting less than 10 pounds, standing and or walking about 6 hours in an 8 hour workday, and sitting about 6 hours in an 8 hour workday. The restrictions were based upon scars from gunshot wounds, hyperalgesia around scars, and decreased shoulder range of motion. Assistive Devices were not deemed necessary. The neurologist indicated that the Claimant could not grasp, reach, push or pull or fine manipulate with the right hand/arm. It was determined that the Claimant could meet his needs in the home. The objective medical evidence places the Claimant as capable of performing sedentary work activity. In light of Claimant's age and the fact that the past work was unskilled, transferability is not an issue.

If the impairment or combination of impairments does not limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of the Claimant's testimony, medical records, and

current limitations, it is found that the Claimant is not able to return to past relevant work; due in large part the lifting carrying limitations of less than 10 pounds with his right and other restrictions listed above. Thus, the fifth step in the sequential analysis is required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). The Claimant is 49 years old and, thus, is considered to be an individual of younger age for MA purposes. The Claimant graduated from high school. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In this case, the evidence reveals that the Claimant has a medical impairment due to mononeuropathy in his dominant right hand with mild carpal tunnel syndrome. The Claimant also alleges leg pain due to gunshot wound and use of a cane. Notwithstanding these conditions, and based upon the foregoing objective medical evidence completed by his doctor, Claimant's neurologist, determined that the Claimant could sit for extended periods of time, 6 hours, and does so most days and is able to walk around his home as necessary and was restricted in the use of his right hand. No assistive devices were deemed necessary by his treating neurologist. The medical evaluation performed by the Claimant's neurologist in December 2013 reviewed in detail above; however, finds Claimant capable of standing or walking up to 6 hours in an 8 hour work day and sitting about 6 hours in an 8 hour work day thus evaluating Claimant with the capacity for sedentary work.

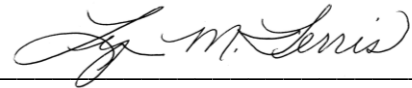
In consideration of the foregoing and in light of the objective limitations, it is found that the Claimant retains the residual functional capacity for work activities on a regular and continuing basis to meet at the physical and mental demands required to perform sedentary work as defined in 20 CFR 416.967(a). After review of the entire record and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.21 it is found that the Claimant is not disabled for purposes of the MA-P program at Step 5.

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

DECISION AND ORDER

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

Accordingly, the Department's determination is AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 8, 2014

Date Mailed: May 8, 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.

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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

LMF/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]