

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-62752
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: January 22, 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 January 22, 2014, from Redford, Michigan. Participants included the above-named Claimant who appeared by telephone. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker, and [REDACTED], Specialist.

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 (see Exhibits 9-10), including retroactive MA benefits from 4/2012 (see Exhibits 11-12).
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 Exhibit 2).

4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 3-4) informing Claimant of the denial.
5. On [REDACTED], Claimant requested a hearing disputing the denial of MA benefits; Claimant's AHR requested a hearing on [REDACTED].
6. On 1 [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant did not have a severe impairment (see Exhibit 444).
7. On [REDACTED], an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A40) at the hearing.
9. During the hearing, Claimant waived the right to receive a timely hearing decision.
10. During the hearing, Claimant and DHS waived any objections to allow the admission of any additional medical documents considered and forwarded by SHRT.
11. On [REDACTED], an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by State Hearing Review Team was subsequently issued which extended the record 90 days from the date of hearing.
12. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 201.27.
13. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
14. As of the date of the administrative hearing, Claimant was a 49 year old female with a height of 5'6" and weight of 260 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant's highest education year completed was the 12th grade, via general equivalency degree.
17. As of the date of the administrative hearing, Claimant had private health insurance, ongoing for 3 months.
18. Claimant alleged disability based on impairments and issues including heart disease, closed head injury complications, lung disease, hypertension (HTN), and seizures.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's 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 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; 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 information from Claimant's testimony and a summary of the relevant submitted medical documentation.

Claimant testified that she was in a motor vehicle accident in 1986. Claimant testified that the accident caused a closed head injury. Claimant testified that she was comatose for an unspecified period following the accident. Claimant testified that she has numerous health problems today, many of which are related to injuries suffered from the car accident.

Various hospital encounter documents (Exhibits 70-77; 133-150; 236-284; 330-437) from 2011 were presented. The documents noted numerous complaints by Claimant including the following: chronic back pain, neck pain following a fall, chest pain, opiate withdrawal, and right hip pain. A medical history of CAD, right hip replacement and HTN was noted On [REDACTED], abnormal stress test results were noted. It was noted that on [REDACTED], Claimant underwent a coronary angiogram, left ventriculogram, and a right femoral artery angiogram. On [REDACTED], a treating physician assessed Claimant with lumbar and cervical facet arthropathy.

Hospital documents (Exhibits 219-231) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of chest pain. It was noted that Claimant ran out of pain medications. It was noted that Claimant's pain improved and that she was discharged. Prescriptions for Norco and Reglan were noted as given to Claimant.

Hospital documents (Exhibits 209-217) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of neck pain following an alleged seizure. No seizure treatment was noted. It was noted that Claimant sought oxycontin to treat her pain. It was noted that Claimant was given a dilaudid injection and a valium injection. Prescriptions for Norco and valium were noted as given.

Hospital documents (Exhibits 201-208) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of back pain. It was noted that Claimant had no neurological deficits. Bilateral lower spinal tenderness was noted. It was noted that Claimant had a steady gait. It was noted that Claimant was advised to return if pain worsened.

Hospital documents (Exhibits 316-329) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of back and hip pain. It was noted that Claimant had no neurological deficits. A final diagnosis of back spasms was noted.

Hospital documents (Exhibits 177-186; 306-315) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of back pain. It was noted that Claimant had no neurological deficits. Normal range of back motion was noted. Tenderness and spasms were noted as observed during a physical examination. It was noted that Claimant was advised to return if pain worsened.

Hospital documents (Exhibits 153-176; 283-305) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with a throat abscess. A final diagnosis of acute pharyngitis was noted.

Hospital documents (Exhibits 78-95) from an encounter dated [REDACTED] were presented. An admitting diagnosis of unstable angina pectoris was noted. It was noted that Claimant complained of chest pain. On [REDACTED], improved chest appearance was noted.

Hospital documents (Exhibits 115-125) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with a complaint of chest pain. It was noted that radiology of Claimant's chest was negative. It was noted that Claimant's chest pain improved.

Hospital documents (Exhibits 96-114) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with a complaint of dyspnea and headaches. In response to Claimant complaints of headaches, a CT of Claimant's head was

performed; a normal CT examination was noted. It was noted that a stress test from the previous month showed no ischemia. A radiology report of Claimant's lower extremities noted no evidence of deep vein thrombosis. An impression of low volume respiration was noted following chest radiology.

A physical examination report (Exhibits 33-38) dated [REDACTED] was presented. The report was completed by a consultative physician. It was noted that Claimant had current abilities to sit, stand, carry, and push. Restrictions in range of motion were noted in all tested lumbar, cervical, knee and hip motions. Edema of 1+ and 2+ was noted. A positive straight-leg-raising test was noted on the right. It was noted that Claimant had difficulty getting on-and off the examination table

Radiology reports (Exhibits 31-32) dated [REDACTED] were presented. It was noted that views of Claimant's chest demonstrated no acute cardiopulmonary process. It was noted that a mammogram was negative for malignancy.

Physician office visit documents (Exhibits 26-30) dated [REDACTED] were presented. It was noted that Claimant had coronary artery disease (CAD) which was well controlled. A diagnosis of chronic pain syndrome was noted as controlled on medications. Out of control hyperlipidemia was noted. HTN was noted as controlled.

Office visit documents (Exhibits 440-443) dated [REDACTED] were presented. It was noted that Claimant requires pain medications to function. A diagnosis of chronic pain syndrome was noted. Hyperlipidemia was noted as uncontrolled. A physical examination was negative in all checked areas. A diagnosis for seizures was noted but no further explanation was provided. Sleep apnea was also noted.

Hospital documents (Exhibits A15-A18) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with a complaint of leg pain. Radiology of Claimant's left leg was noted as normal.

Hospital documents (Exhibits A15-A40) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with a complaint of chest pain, ongoing for 1 month. It was noted that Claimant was short of breath. A radiology report of Claimant's chest noted an impression of left basilar airspace opacity. It was noted that Claimant underwent cardiac testing. Possible minor scarring was noted on Claimant's thorax.

Claimant's physician noted that Claimant had multiple psychological restrictions. Claimant failed to provide any evidence of psychiatric treatment or psychiatric testing. There was no evidence presented to know the extent of Claimant's mental restrictions. It is found that Claimant has no significant psychological impairments.

Claimant alleged disability based on several problems. Claimant testified that she has ambulation restrictions due to her various problems. It was established that Claimant has a history of some heart problems, chronic pain syndrome and HTN. It was verified

that Claimant takes strong pain medication, presumably to treat her chronic pains. Based on the presented evidence, it is found that Claimant has significant impairments to performing basic work abilities.

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 heart failure. Listing 4.02 states outlines when disability may be found based on chronic heart failure:

4.02 Chronic heart failure while on a regimen of prescribed treatment, with symptoms and signs described in 4.00D2. The required level of severity for this impairment is met when the requirements in *both A and B* are satisfied.

A. Medically documented presence of one of the following:

1. Systolic failure (see 4.00D1a(i)), with left ventricular end diastolic dimensions greater than 6.0 cm or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); or
2. Diastolic failure (see 4.00D1a(ii)), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater on imaging, with an enlarged left atrium greater than or equal to 4.5 cm, with normal or elevated ejection fraction during a period of stability (not during an episode of acute heart failure);

AND

B. Resulting in one of the following:

1. Persistent symptoms of heart failure which very seriously limit the ability to independently initiate, sustain, or complete activities of daily living in an individual for whom an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that the performance of an exercise test would present a significant risk to the individual; or
2. Three or more separate episodes of acute congestive heart failure within a consecutive 12-month period (see 4.00A3e), with evidence of fluid retention (see 4.00D2b (ii)) from clinical and imaging assessments at the time of the episodes, requiring acute extended physician intervention such as hospitalization or emergency room treatment for 12 hours or more, separated by periods of stabilization (see 4.00D4c); or

3. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less due to:
 - a. Dyspnea, fatigue, palpitations, or chest discomfort; or
 - b. Three or more consecutive premature ventricular contractions (ventricular tachycardia), or increasing frequency of ventricular ectopy with at least 6 premature ventricular contractions per minute; or
 - c. Decrease of 10 mm Hg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise (see 4.00D4d) due to left ventricular dysfunction, despite an increase in workload; or
 - d. Signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion.

A New York Heart Classification (Exhibit A3) dated [REDACTED] was presented. The classification was completed by a primary care physician. Claimant's physician noted that Claimant's functional level was Class IV and her therapeutic level was Class D

Claimant's heart functioning level is representative of one with cardiac disease resulting in inability to carry on any physical activity without discomfort; symptoms of cardiac insufficiency or of the angina syndrome are present even at rest. If any physical activity is undertaken, discomfort is increased. Patients with a Class D therapeutic level are those with cardiac disease whose ordinary physical activity should be markedly restricted.

Claimant's heart classification is highly indicative of a person who is disabled. The restrictions were highly unsupported by the presented medical evidence.

Claimant underwent an echocardiogram (see Exhibits 93-95) on [REDACTED]. It was noted that Claimant's ejection fraction ranged from 60% to greater than 70%. All heart functions and structures were noted as normal. The medical evidence was suggestive that Claimant's heart function, at that time, was exceptional

It was established that Claimant underwent a stent placement in 11/2013 (see Exhibits A4-A14). The stent was inserted based on 30-40% stenosis. It was noted that Claimant's ejection fraction was 60% and no aortic insufficiency was noted.

The need for a stent in 11/2013 tends to verify that Claimant's heart function was not as exceptional as it appeared in 3/2012. Presented documentation tended to show to verify that Claimant's heart problems were resolved following stent placement. A physician claim that Claimant's heart function makes her markedly restricted is wholly unsupported by the presented evidence. It is found that Claimant does not meet Listing 4.02.

Listings for joint dysfunction (1.02), epilepsy (11.03 and 11.04), and pulmonary insufficiency (3.02) were also considered. The listings were rejected due to insufficient evidence to justify find that Claimant meets any listing requirements.

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 she last worked in 2001 when she performed cleaning work for a car manufacturer. Claimant testified that she is unable to perform the physical requirements (e.g. bending and twisting) of her past employment. Claimant's testimony was credible. It is found that Claimant cannot perform her past 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)

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.

A Medical Examination Report (Exhibits A1-A2) dated [REDACTED] from Claimant's treating physician was presented. Claimant's physician noted a 13+-year history of treating Claimant. Claimant's physician provided diagnoses of shortness of breath, anxiety, panic attacks, and weakness. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs. It was noted that Claimant was limited in sustained concentration, reading/writing, and memory. Claimant's physician opined that Claimant was restricted from lifting or carrying any weight. Claimant's physician opined that Claimant was restricted to walking and/or standing of less than 2 hours per 8 hour workday. Claimant's physician opined that Claimant could not perform any repetitive arm or foot actions.

Claimant testified that she can only walk 40 feet before she loses her breath. Claimant's testimony was not verified. It is plausible that chronic pain syndrome and/or uncontrolled HTN could cause dyspnea. Despite numerous hospital encounters, only one (from 11/2013) resulted in a hospital admission; that admission appeared to be for only 3 days and resulted in resolution of Claimant's cardiac problems.. Numerous radiology reports were presented; none verified notable abnormalities. Cardiac testing was also not supportive in finding restrictions to justify such a limited walking distance.

Claimant's physician opined that Claimant had serious lifting, walking and repetitive arm movement restrictions. Claimant's physician's credibility was immensely diminished after providing what appeared to be unsupported cardiac restrictions.

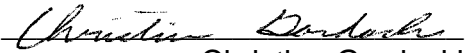
It was established that Claimant has chronic pain syndrome, a degree of difficulty with ambulation, a need for pain medication and a relatively well functioning heart. There was also evidence of cervical, lumbar, hip and knee problems based on restricted ranges of motion. The restrictions could justify a finding that Claimant could not perform light employment. The restrictions are not supportive in finding that Claimant cannot perform sedentary employment. It is found that Claimant can perform sedentary employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school), employment history (no transferrable skills), 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, 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: 5/7/2014

Date Mailed: 5/7/2014

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:

