

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7185
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: March 3, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 3, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

ISSUE

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

4. On [REDACTED], DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED] 3, Claimant requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 204.00
7. On [REDACTED], an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A21) 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 an additional 90 days.
12. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 204.00
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 33 year old female with a height of 5'8" and weight of 300 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant's highest education year completed was the 8th grade.
17. As of the date of the administrative hearing, Claimant was an Adult Medical Program recipient, ongoing for approximately 4 years.
18. Claimant alleged disability based on impairments and issues including depression, anxiety, post-traumatic stress disorder and back pain.

CONCLUSIONS OF LAW

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

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

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

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

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

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

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

Substantial gainful activity means a person does the following:

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

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

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

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

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

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

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

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

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)

- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

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

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

A medical treatment document (Exhibit 29) dated [REDACTED] was presented. It was noted that Claimant took medications of Accolate, an inhaler, and Claritin.

A Psychiatric Evaluation (Exhibits 20-23) dated [REDACTED] was presented. It was noted that Claimant reported lifelong depression. It was noted that Claimant's depression worsened at age 17 after her father's death. It was also noted that Claimant's depression again worsened after being raped at age 23. It was noted that Claimant reported no history of suicide attempts. It was noted that Claimant last worked for three days in 1999. It was noted that Claimant stays in bed most of the day and that she does very little else. Noted examiner observations included: intact judgment, no clear psychosis, productive speech, and slightly sad state. A primary Axis I diagnosis of dysthymic disorder was noted; PTSD was noted as a secondary disorder. Claimant's GAF was noted to be 50. A guarded prognosis was noted. A prescription for Lexapro was noted.

Progress notes (Exhibits 30-32) dated [REDACTED] were presented. It was noted that Claimant presented for treatment for ear discharge. A primary assessment of pharyngitis was noted. Other assessments included the following: otitis, hyperlipidemia,

asthma, low back pain, anxiety and depression, PTSD, H/O rape, morbid obesity, and vitamin D deficiency.

Progress notes (Exhibits 33-35) dated [REDACTED] were presented. A primary assessment of hyperlipidemia was noted. It was noted that various medications were prescribed.

Progress notes (Exhibits 36-39) dated [REDACTED] were presented. It was noted that Claimant presented seeking medication refills and for treatment of back pain. It was noted that Claimant reported dizziness, weakness, anxiety, finger stiffness, and poor sleep. It was noted that lab tests were performed. A primary assessment of hyperlipidemia was noted. Claimant was prescribed ibuprofen for back pain.

Treatment documents (Exhibits 12-16) dated [REDACTED] were presented. It was noted that Claimant does not want to attend group therapy. It was noted that Claimant does not want to talk. It was noted that Claimant's motor skills, speech and thought processes were normal.

A Medical Examination Report (Exhibits 9-10) dated [REDACTED] from Claimant's physician was presented. Claimant's physician noted a "many year" history of treating Claimant. The physician provided diagnoses of chronic back pain, morbid obesity, asthma and PTSD. It was noted that Claimant can meet household needs.

Treatment documents (Exhibits 17-19) dated [REDACTED] were presented. It was noted that Claimant's motor skills, speech and thought processes were normal.

Respiratory testing reports (Exhibits 9-12) dated [REDACTED] was presented. It was noted that Claimant's best FVC level was 3.47. Claimant's best FEV1 level was 1.33. Both levels were noted as below normal. A summary noted that Claimant's pre-medication results revealed severe obstruction; no significant improvement was noted following medication.

A Psychiatric Evaluation (Exhibits A13-A16) dated [REDACTED] was presented. It was noted that Claimant reported difficulty sleeping and lifelong depression, It was noted that Claimant has panic attacks. It was noted that Claimant sometimes hears her deceased father's voice. Noted observations included orientation x3. An Axis I diagnosis of major depressive disorder was noted. Claimant's GAF was noted to be 43. A recommendation of GED classes and vocational rehabilitation was noted.

An MRI report (Exhibits 7-8) of Claimant's lumbar was presented. The report was dated [REDACTED]. An impression of disc desiccation and disc height loss at L1-L2 and L5-S1 was noted. Canal stenosis and foraminal narrowing were specifically noted as absent.

Lab results (Exhibits A1-A6) dated [REDACTED] were presented. Various out-of-range levels were noted including RDW, glucose, vitamin D, and cholesterol/HDL ratio.

Claimant presented a list of medications (Exhibit 18). Presumably, Claimant created the list. Claimant's list included the following medications: lisinopril, proranolol, tricolor, naproxen, vitamin D, Benadryl, Claritin, Topamax Flexeril, Norco, Symbicort, Proair, Flonase, Imitrex, Desyrel, Abilify, and Lexapro. The list was consistent with a list dated [REDACTED] (Exhibits 19-20) from Claimant's treating psychiatric agency.

Claimant testified that she has back pain which affects her ability to ambulate. Spinal radiology verified disc desiccation at two vertebrae spaces; the diagnosis was not compelling evidence of back pain that would restrict Claimant's activities. The noted absence of stenosis and foraminal narrowing is persuasive evidence that Claimant's back pain is likely not impacting her ability to ambulate or lift. Other evidence of back problems was not presented. It is found that Claimant does not have a severe impairment related to back pain.

The most compelling evidence of a physical restriction was respiratory testing. Claimant's forced expiratory volume was so low that it met required SSA listing requirements for an individual 68 inches in height. Despite the respiratory testing results, there is little evidence to suggest significant ongoing respiratory dysfunction.

Claimant's testimony mentioned back problems and numerous psychiatric problems. Little or none of her disability concerned respiratory dysfunction. This is consistent in finding that Claimant may have had respiratory dysfunction, but it is not an ongoing problem.

At least one of Claimant's medications (proair) is known to treat breathing difficulties; this was some evidence of ongoing respiratory difficulty. Treatment records noting Claimant complaints of dyspnea were not presented. Hospital documents treating dyspnea were not presented. Diagnoses of asthma and/or COPD were not verified. Presumably, if Claimant's breathing was so poor, Claimant could have better verified treatment for her breathing difficulties.

A lack of access to medical treatment is often an obstacle for claimants trying to prove disability. Claimant had access to health insurance since 2010, so presumably, Claimant could have submitted breathing treatment records, if such records existed.

Based on the presented evidence, it is found that Claimant does not have a significant impairment concerning respiratory dysfunction. Claimant is left with a claim of disability based on her psychological obstacles.

Claimant's primary argument was that her psychological symptoms prevent her from performing employment. Claimant testified that anxiety, panic attacks and social isolation are just some of her psychological symptoms. Claimant also testified that she has great difficulty handling stress. Claimant testified, as a child, she saw her mother regularly physically abused. Claimant testified that the abuse she witnessed adversely affected her functioning abilities. Claimant also testified that a sexual assault in 2003 further damaged her psyche.

Claimant's testimony was consistent with presented medical records which tended to verify some degree of stress difficulties, social interaction restrictions, and problems in persistence and/or concentration. It was verified that Claimant's psychological problems have persisted for numerous years.

Based on the presented evidence, it is found that Claimant has significant impairment to performing basic work activities for a period longer than 12 months. Accordingly, it is found that Claimant has a severe impairment and 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 anxiety. Anxiety disorders are covered by Listing 12.06 which reads:

12.06 Anxiety-related disorders: In these disorders anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders.

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

- A. Medically documented findings of at least one of the following:
1. Generalized persistent anxiety accompanied by three out of four of the following signs or symptoms:
 - a. Motor tension; or
 - b. Autonomic hyperactivity; or
 - c. Apprehensive expectation; or
 - d. Vigilance and scanning; or
 2. A persistent irrational fear of a specific object, activity, or situation which results in a compelling desire to avoid the dreaded object, activity, or situation; or
 3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week; or
 4. Recurrent obsessions or compulsions which are a source of marked distress; or

5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress;

AND

B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or
3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration.

OR

C. Resulting in complete inability to function independently outside the area of one's home.

As of [REDACTED], Claimant's GAF was noted by a psychiatrist to be 43. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's GAF is consistent with finding that Claimant has marked restrictions sufficient to meet the above listing.

The evaluator finding Claimant's GAF to be 43 also noted that Claimant is "totally disabled at this time" due to Claimant's multiple problems. The evaluator's statements are consistent with finding that Claimant is disabled.

It was noted throughout Claimant's treatment records that Claimant does not like people and that she makes efforts to avoid any social interaction. This is consistent with finding that Claimant has marked restrictions in social interactions.

There was no evidence of suicide attempts or psychiatric hospitalizations. This is consistent with finding that Claimant is not disabled.

The presented medical records tended to establish that Claimant is not making any progress despite medications and treatment. This consideration could be interpreted that Claimant's lack of psychiatric improvement is persuasive evidence of disability.

Of more concern was Claimant's lack of progress in meeting the few goals that were listed. For example, it was noted that Claimant refused to attend group therapy. It was recommended that Claimant obtain her GED but there was no evidence that Claimant made any attempts to pursue education. Claimant conceded that her lifelong work history consists of working a grand total of 3 days. Claimant's lack of efforts in pursuing work, attending therapy, or obtaining a GED was evidence more indicative of irresponsibility rather than disability.

An evaluating psychiatrist noted that Claimant is "reluctant to take any responsibility for her life or take any constructive steps towards resolving any of her issues" (see Exhibit

15). It was noted that Claimant was willing to take medications and outpatient treatment. Though Claimant displays minimal effort in pursuing psychiatric treatment, Claimant's failure to pursue specific treatment goals is deemed to be material noncompliance of treatment.

Based on the presented evidence, it is found that Claimant does not meet the SSA listing for anxiety due to Claimant's noncompliance with treatment. 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 in 1999, she worked 3 days as a housekeeper. Claimant testified that she quit her job after three days and has not worked since.

Claimant's testimony was credible and consistent with presented evidence. It is found that Claimant has not performed SGA in the last 15 years. Accordingly, it can only be found that Claimant cannot return to 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)

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).

It was found in step 2 of the analysis that Claimant does not have severe physical impairments. Thus, no analysis of Claimant's exertional abilities need be made.

At step 3 of the analysis, it was determined that Claimant's anxiety impacts her ability to perform employment, but not enough to meet listing levels. It was found that Claimant has difficulty with stress, social interactions and concentration.

Presumably, Claimant could perform simple, repetitive employment not involving the general public. Though Claimant's opportunities are restricted, they are not so restricted as to presume that such jobs are not available. It is found that Claimant has availability to employment and that Claimant is not disabled. Accordingly, it is found that DHS properly denied Claimant's MA application.

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

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (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:

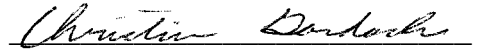
- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Id.

It has already been found that Claimant is not disabled for purposes of MA benefits based on a finding that has opportunities to perform simple and repetitive employment not involving the general public. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is not disabled for purposes of SDA eligibility and that DHS properly denied Claimant's application for SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA and SDA benefit application dated [REDACTED] 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: 5/21/2014

Date Mailed: 5/21/2014

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:

