

1. On January 15, 2014, Claimant applied for MA-P and retro MA-P to December 2013.
2. On April 23, 2014, the Medical Review Team denied Claimant's request.
3. On June 23, 2014, Claimant submitted to the Department a request for hearing.
4. SHRT denied Claimant's request.

5. Claimant is 48 years old.
6. Claimant completed education through high school.
7. Claimant has employment experience (last worked 2010) as a direct care worker which required standing/walking 40% of the time, sitting 60% of the time, and lifting 15-20 pounds. She also worked in a factory which required her to stand/walk 50% of the time, sit 50% of the time and lift less than 10 pounds.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from thrombocytopenia, Turner's syndrome, occlusive coronary artery disease, diabetes, hypertension, depressive disorder and cervical pain.
10. Claimant has some limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.
11. Claimant has some limitations on understanding, carrying out, and remembering simple instructions; use of judgment; responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

### **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.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. Under SSI, 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 set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b).

Secondly, the individual must have a medically determinable impairment that is “severe” or a combination of impairments that is “severe.” 20 CFR 404.1520(c). An impairment or combination of impairments is “severe” within the meaning of regulations if it significantly limits an individual’s ability to perform basic work activities. An impairment or combination of impairments is “not severe” when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual’s ability to work. 20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the trier must determine the claimant’s residual functional capacity. 20 CFR 404.1520(e). An individual’s residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, the trier must consider all of the claimant’s impairments, including impairments that are not severe. 20 CFR 404.1520(e) and 404.1545; SSR 96-8p.

The fourth step of the process is whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f). The term past relevant work means work performed (either as the claimant actually performed it or as is it generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. If the claimant has the residual functional capacity to do his/her past relevant work, then the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth step.

In the fifth step, an individual’s residual functional capacity is considered in determining whether disability exists. An individual’s age, education, work experience and skills are used to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e).

Here, Claimant has satisfied requirements as set forth in steps one, two and three of the sequential evaluation. However, Claimant’s impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416.926. Therefore, vocational factors will be considered to determine Claimant’s residual functional capacity to do relevant work.

In the present case, Claimant has been diagnosed with thrombocytopenia, Turner's syndrome, occlusive coronary artery disease, diabetes, hypertension, depressive disorder and cervical pain. Claimant alleged a number of symptoms and limitations, as a result of these conditions.

A DHS-49 completed by a physician [REDACTED] indicated that Claimant had undergone a coronary artery bypass graft [REDACTED]. This physician noted Claimant's diagnosis as thrombocytopenia, diabetes mellitus, hypertension and Turner's syndrome. Claimant was limited to lifting nothing over 5 pounds. This limitation was noted to last three months.

[REDACTED] a consulting internal medicine exam was performed. This physician noted that Claimant was alert, awake and oriented to person, place and time. She had a stable gait. She was capable of toe, heel and tandem walking. No flaccidity, spasticity or paralysis was noted. Finger to finger, finger to nose and Romberg were all found to be negative. Claimant's diagnosis was hypertension, coronary artery disease, post coronary artery bypass graft, diabetes mellitus type 2 and cervical pain. This physician indicated that Claimant's blood pressure was within normal limits. She had no signs of further angina or sign of congestive heart failure. There was no neck vein distension, heart murmur, gallop, pulmonary rales, visceromegaly, or leg edema. Her diabetes was found to be controlled. She had no excessive thirst or frequent urination issues. There was no sign of peripheral vascular disease, no leg ulcers, gangrene, stasis dermatitis, or brawny edema. Pulses were palpable. There were no neck spasm or tenderness and she had a full range of movement. This consultant noted that Claimant was capable of all orthopedic maneuvers such as sitting, standing, bending, etc. She was noted to have less grip strength in her left hand.

Claimant was examined by a mental health professional [REDACTED]. Claimant was found to be suffering with a depressive disorder. This mental provider noted a GAF of 50. Claimant was found capable of managing her own benefit funds. She appeared promptly for her appointment. She was neatly and appropriately attired with good hygiene but with little attention to her overall grooming. She walked slowly with an awkward gait. She spent an inordinate amount of time on the patient questionnaire.

Claimant testified to the following symptoms and abilities: a lot of pain in her feet, pain in her neck, pain in her arms, heel spurs, can stand 20 minutes, can walk 50 feet, tires out easily, poor grip and grasp, loss of use of left arm at times, can sit an hour, leg pain, hand pain, poor sleep due to pain, takes warm baths to relieve pain, limited household chores, has help with chores, able to manage personal care, struggles with bending and squatting, problems with balance when she goes to stand up after sitting, 20 days out of 30 days she is limited in the movement of her hands, arms and neck, she takes naps during the day, poor concentration and memory, crying spells occurring weekly, suicidal thoughts occurring occasionally, chronic pain, she indicated the pain is greater at night, constantly needing to move her legs, shortness of breath and pounding heart with little exertion, has panic attacks, has issues with her hands going numb, has issues with fine

manipulation skills with her hands, some problems with vision, no chest pain and uses a motorized cart when she goes to the grocery store.

After reviewing the objective medical evidence submitted for consideration, this Administrative Law Judge finds Claimant's testimony regarding the degree and severity of her limitations and symptoms to be less than credible. The records fail to support the dramatic restrictions on her daily activities and abilities she alleges she suffers. Tests administered following her bypass indicate that Claimant has an EF of 60% and indicate that Claimant's treatment was successful.

The fourth step of the analysis to be considered is whether the claimant has the ability to perform work previously performed by the claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the claimant from doing past relevant work. In the present case, Claimant's past employment was in direct care work which required her to stand/walk 40% of the time, sit 60% of the time and lift 15-20 pounds. She also performed factory work which required her to stand/walk 50% of the time, sit 50% of the time and lift less than 10 pounds. This Administrative Law Judge finds, based on the medical evidence and objective, physical, and psychological findings, that Claimant is capable of the physical or mental activities required to perform any such position. 20 CFR 416.920(e).

A finding that the Claimant is capable of past employment renders Claimant not disabled for purposes of MA benefits. However, this Administrative Law Judge will continue the analysis through step 5.

In the final step of the analysis, the trier of fact must determine if the claimant's impairment(s) prevent the claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the claimant's:

1. residual functional capacity defined simply as "what can you still do despite your limitations?" 20 CFR 416.945;
2. age, education, and work experience, 20 CFR 416.963-965; and
3. the kinds of work which exist in significant numbers in the national economy which the claimant could perform despite her limitations. 20 CFR 416.966.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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. 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

See *Felton v DSS* 161 Mich App 690, 696 (1987). Once the claimant makes it to the final step of the analysis, the claimant has already established a *prima facie* case of disability. *Richardson v Secretary of Health and Human Services*, 732 F2d 962 (6<sup>th</sup> Cir, 1984). Moving forward, the burden of proof rests with the State to prove by substantial evidence that the claimant has the residual function capacity for SGA.

This Administrative Law Judge finds that Claimant has the residual functional capacity to perform work at least at a light work level. Claimant has not presented objective medical evidence that would demonstrate a marked mental impairment that would prevent basic work activities.

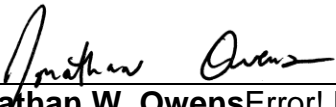
Claimant is an individual of younger age. 20 CFR 416.963. Claimant has a high school education. 20 CFR 416.964. Claimant's previous work was unskilled. Federal Rule 20 CFR 404, Subpart P, Appendix 2, contains specific profiles for determining disability

based on residual functional capacity and vocational profiles. Under Table I, Rule 202.20, Claimant is not disabled for purposes of the Medical Assistance program.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not medically disabled.

Accordingly, the Department's decision is hereby UPHeld.

  
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**Jonathan W. Owens** Error! No  
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Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **8/11/2014**

Date Mailed: **8/12/2014**

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**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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