

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-62071
Issue Nos.: 2009
[REDACTED]
Hearing Date: March 5, 2014
DHS County: Wayne County (18)

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 March 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. [REDACTED] appeared as attorney for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], 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 January 24, 2013, the Claimant submitted an application for public assistance seeking MA-P benefits.
2. On July 15, 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 16, 2013.

4. On July 29, 2013, the Department received the Claimant's timely written request for hearing.
5. On September 20, 2013, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
6. An Interim Order was issued March 7, 2014. The new evidence was submitted to the State Hearing Review Team on February 21, 2014.
7. On May 20, 2014, the State Hearing Review Team found the Claimant disabled as of May 31, 2014 based on Vocational Rule 201.14, and not disabled prior to that period based upon Vocational Rule 201. 21.
8. The Claimant alleges physical disabling impairments due to obesity, diabetes, neuropathy, onychomycosis and well as asthma, peripheral artery disease, chronic abdominal pain and COPD.
9. The Claimant alleges mental disabling impairments including depression.
10. At the time of hearing, the Claimant was 49 years old with a [REDACTED] birth date. Claimant is 5'2" in height; and weighed 194 pounds.
11. The Claimant completed A GED. The Claimant's past work was performing work as a direct care provider for with mentally challenged individuals as a direct care worker in group homes, as well as working as a job coach with responsibility for managing general office work, answering phones, and billings for services.

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.

In this case, the State Hearing Review Team found the Claimant to be disabled as of May 31, 2014 on the basis that based upon her age of 50 and sedentary status, she was disabled as of age 50. For the period from the application, January 24, 2013 through May 30, 2014, the Claimant was deemed not disabled based upon her age (49) and sedentary status based upon Vocational Rule 201.201.14. The only period covered by this Decision is the period January 24, 2013 through May 30, 2014.

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 obesity, diabetes, neuropathy, onychomycosis and well as asthma, peripheral artery disease, chronic abdominal pain and COPD.

The Claimant alleges mental disabling impairments due to depression. The Claimant at the time of the hearing was not receiving treatment for her depression.

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

A Medical Examination Report was completed on November 14, 2013 by the Claimant's primary care doctor. At the time, the diagnosis was diabetes asthma PAD and PMDD as noted before. At the time of this examination, the Claimant's condition was noted as deteriorating and limitations were imposed identical to the April 13, 2013 examination.

A Medical Examination Report was completed on April 13, 2013 by the Claimant's treating podiatrist. This doctor has treated the Claimant since August 1999. The diagnosis was diabetes and neuropathy, onychomycosis and ingrown toenails. At the time of the examination, the Claimant's condition was deteriorating and limitations were imposed which were expected to last more than 90 days. The Claimant was limited and was evaluated as being unable to operate foot/leg controls with either foot.

On November 14, 2013, a Medical Examination Report was completed by the Claimant's family practice physician who has treated her since May 2012. For purposes of this decision, the doctor will be deemed a treating doctor. The diagnosis was

diabetes, asthma, (PAD peripheral artery disease) and PMDD (Pre-Menstrual Dysphoric Disorder). The Claimant was noted as having obesity being 5'2" tall and a current weight of 216 pounds.(BMI 42.2). The Claimant was noted to have peripheral arterial disease and with chronic pain in her abdomen, as well as depression being noted. At the time of the exam, the Claimant was noted as deteriorating and the following limitations were imposed. The Claimant could occasionally lift 10 pounds. She could stand or walk less than two hours in an eight-hour workday. The Claimant could use both of her hands and arms and both of her feet/legs. The Claimant was evaluated as capable of meeting her needs in the home. No restrictions were placed regarding siting.

An arterial Doppler examination was performed on May 25, 2013. The impression from the examination confirmed abnormal bilateral examination demonstrating bilateral lower cavity peripheral vascular disease with monophasic waveforms noted of the left common femoral artery, bilateral superficial femoral arteries and bilateral anterior and posterior tibial arteries. Consider follow-up with angiography. The same exam results were apparent one year earlier.

The Claimant was seen on December 26, 2012 in the emergency room for shortness of breath and was admitted for a one-day stay. The Claimant was placed on cardiac monitor and given an EKG as well as oxygen. Claimant was placed on a heart monitor and oxygen to assist with breathing. The admission was for bronchial spasm. At the time of the admission, her diabetes was uncontrolled and shortness of breath was due to chronic obstructive pulmonary disease. The Claimant was admitted with shortness of breath secondary to acute exacerbation of COPD, diabetes mellitus, uncontrolled and depression with tobacco abuse. The Claimant was seen one week prior for left sided neck and shoulder pain. The Claimant was discharged that day with a final diagnosis of bronchitis acute and left shoulder arthralgia. An x-ray showed no acute osseous abnormality.

The Claimant was seen for a consultative mental status examination on April 7, 2014. The reviewing psychologist gave a diagnostic impression of persistent depressive disorder with anxious distress, early onset with intermittent major depressive episodes, with current episode at this time, moderate; the prognosis was fair. The Claimant was found as capable of managing her funds. Based on the examination, there were no limitations noted in this individual's ability to understand, remember or carry out simple instructions. The Claimant's ability to perform simple multi-step tasks at a sustained pace appears to be adequate. Her ability to interact appropriately with the general public, accept instructions and respond appropriately to supervisors appears to be adequate. There were no significant limitations noted in the individual's ability to maintain socially appropriate behaviors and adhere to required standards in an organized setting. A Mental Residual Functional Capacity Assessment was also completed. The Claimant was evaluated as not significantly limited in her ability to

understand, use her memory and sustained concentration, and was only moderately limited in her ability to maintain attention for extended periods and ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms, and to perform at a consistent pace without unreasonable number and length of rest periods. The Claimant was also moderately limited in her ability to work in coordination with or proximity to others without being distracted by them. The Claimant was rated as not significantly limited in social interaction or adaption except for her ability to travel in unfamiliar places.

A consultative diabetic eye examination was conducted on April 7, 2014. The Examiner noted that the last exam was 18 months ago and noted a history of laser treatment to both eyes and use of drops to prevent glaucoma. On examination, the best corrected visual acuity is 20/25 on right and 20/20. The visual field test without corrects showed 110 degrees of horizontal field on right and 118 on left. The assessment noted myopia and astigmatism. The Examiner concluded that the Claimant has excellent visual acuity and normal visual fields. Based upon these findings, he opined that she should be able to perform the visual tasks required in the work environment. Her prognosis is good and the examiner concludes that "fortunately" at this time her retinopathy is quiet.

On June 2, 2013, Claimant was seen in the emergency department with complaints of nausea and vomiting. The Discharge diagnosis was nausea and vomiting with diabetes mellitus.

The Claimant was seen at the emergency department on June 26, 2013. The Claimant was ill with nausea and vomiting without abdominal pain or fever. The physical exam was normal for all systems. On discharge, gastroparesis was diagnosed and referral made to gastroenterologist.

The Claimant has been seen monthly by her primary doctor who has treated her diabetes and has also referred her to a gastroenterologist. In December 2013, she was seen and her blood sugars were noted as running high despite use of insulin. The Claimant was seen January 27, 2014 with dizzy spells. In February 2014, she was seen complaining of abdominal cramping in right lower abdomen.

In February 2013, the Claimant was seen by her treating podiatrist for mild Onychomycosis and her toenails were cut. The doctor has treated the Claimant since 1999. At the end of the visit, a periodic debridement was scheduled. A medical Exam Report was completed in April 2013, which restricted the Claimant due to diabetic neuropathy and Onychomycosis from using her feet/legs to operate foot controls.

On December 18, 2012, her primary care doctor saw her and noted she has peripheral arterial disease and needs to follow up with a vascular surgeon as it limits her ability to

stand or walk for more than 10 minutes. The doctor notes that she is able to work and sit down, but cannot perform work as a direct care worker. In September 2012, her doctor noted increasing problem with her legs. In August 2012, the Claimant showed significant improvement with use of diet and exercise, riding a bike 30-45 minutes per day and having problems in her hands

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 she does have some physical limitations on 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 obesity, diabetes, neuropathy, onychomycosis and well as asthma, Peripheral artery disease, abdominal pain and COPD. The Claimant has also alleged mental impairments due to depression.

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.

1.14 *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.

Lastly, Listing 12.04 Affective Disorders, was reviewed in light of the consultative examination with a diagnosis of depression. It is noted that the Claimant has never treated for depression in the recent past. Based on the consultative exam, the listing was not met as based upon the Mental Residual Functional Capacity Assessment. The Claimant did not demonstrate any marked limitations in any of the areas evaluated, and the Claimant was rated as not significantly limited or moderately limited in the categories evaluated.

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 work with mentally challenged individuals as a direct care worker in a group home, as well as a job coach with additional duties managing general office work answering phones, and billings for services.

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 light work.

The Claimant testified that she is able to walk for 5 minutes amounting to about a half block. The Claimant testified that she could not bend at the waist due to spasms. The Claimant could sit for an hour, could not perform a squat and could not touch her toes. The Claimant thought she could carry 8 pounds and has problems with her hands and arms due to neuropathy, and feet and legs due to swelling and neuropathy. The Claimant can cook microwave meals. The Claimant uses a scooter to grocery shop.

The Claimant's doctors had conflicting opinions about her abilities, although her longstanding doctor and her primary care doctor both felt she was deteriorating. Her doctor of many years restricted her from operating foot controls on two occasions and evaluated her condition as deteriorating. Her Primary care doctor in 2012 found her ability to stand or walk for more than 10 minutes was limited and that she was no longer able to perform direct care work, but could work and sit down based upon her increasing problems with her legs. The Claimant's Podiatrist who has seen her since 1999, found she was deteriorating and unable to operate foot/leg controls as her only limitation.

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 10 pounds occasionally and standing walking restrictions of less than two hours. 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 period to be examined is from January 24, 2013 through May 31, 2014 when the Claimant was 49 years of age and thus considered a younger individual for MA purposes. The Claimant has a GED. 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 neuropathy associated with her diabetes which affects her feet and legs. The Claimant also has alleged that her hands are also affected. The Claimant is obese with a BMI of 42. Notwithstanding these conditions, and based upon the foregoing objective medical evidence completed by her doctors, Claimant's doctors determined that the Claimant could stand for less than two hours in an 8-hour workday and lift occasionally 10 pounds and listed no restrictions on sitting. No assistive devices were deemed necessary by the treating doctors. Both evaluations suggested that the Claimant had 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, for the period January 24, 2013 through May 30, 2014.

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 is disabled for the period beginning May 31, 2014, based upon the Decision of the State Hearing Review Team finding her disabled as of that date.

It is also determined that the Claimant is **not disabled** for purposes of the MA-P for the period January 24, 2013 through May 30, 2014.

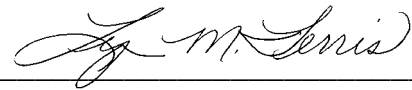
Accordingly, the Department's determination is AFFIRMED for the period January 24, 2013 through May 30, 2014;

AND

The Department is REVERSED for the period May 31, 2014 through present.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process the Claimant's January 24, 2013 application and determine all non-financial aspect of the Claimant's eligibility for MA-P on and after May 31, 2014.
2. A review of this case shall be conducted in September 2015.



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

Date Signed: September 10, 2014

Date Mailed: September 10, 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:

