

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-26760
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 25, 2014
County: Wayne (19)

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 June 25, 2014, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED] [REDACTED] Medical Contact Worker.

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, including retroactive MA benefits from 3/2013.
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.

4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation that Claimant can perform past relevant employment.
7. On [REDACTED], an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A24) 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 additional documents considered and forwarded by SHRT.
11. During the hearing, the records was extended 30 days for Claimant to submit hospital records from 5/2014, radiology reports, and Medical Examination Report(s); an Interim Order Extending the Record was subsequently mailed to both parties.
12. On [REDACTED] Claimant submitted additional medical documents (Exhibits B1-B5).
13. 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.
14. On [REDACTED] SHRT determined that Claimant was not disabled, in part, by determining that Claimant can perform past relevant employment.
15. On [REDACTED], the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
16. As of the date of the administrative hearing, Claimant was a 56 year old female with a height of 5'4" and weight of 200 pounds.
17. Claimant's highest education year completed was the 12th grade, via general equivalency degree.

18. As of the date of the administrative hearing, Claimant was an ongoing Medicaid recipient since 6/2014.
19. Claimant alleged disability based on impairments and issues including hepatitis C, bone spur in foot, leg swelling, lower back pain, and GERD.

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 subsequently amended the request to a telephone hearing. The hearing was conducted in accordance with Claimant's AHR's amended request.

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.*, p. 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.*, p. 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. "Current" work activity is interpreted to include all time since the date of application. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

Claimant testified that she worked part-time as a sales associate for dog food products. Claimant testified that her job only offers 4-8 hours of employment per week. Claimant testified that she made \$13.75/hour when working. Claimant's testimony was credible and un rebutted. It is found that Claimant is not performing SGA and has not performed

SGA since the date of MA application. 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 has a distant history of heroin abuse. Claimant testified that she's been clean for approximately 25 years. Claimant testified that she suspects that her previous abuse caused permanent damage to her body, including many health problems which cannot be identified.

Various medical treatments documents (Exhibits 48-64) from 2011 and prior were presented. Diagnoses of hypertension, urinary tract infection, slurred speech (brain radiology was negative), and thoracic back pain (minimal degeneration was noted in a radiology report).

Various physician treatment documents (Exhibits 37-39; 45-47) from 2012 were provided. The documents verified recurrent treatment for GERD and a sore throat.

An abdominal ultrasound report (Exhibits 66-67) dated [REDACTED] was presented. An impression of hepatic steatosis was noted.

Medical clinic documents (Exhibit 65) dated [REDACTED] were presented. It was noted that Claimant reported severe heartburn. An assessment of GERD was noted.

Medical clinic documents (Exhibit 36) dated [REDACTED] were presented. Treatments for insomnia, GERD, hypertension, and menopause were noted.

Hospital documents (Exhibits 24-25; 41-43; 68-98) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of dyspnea and fever, ongoing for 4 days. At admission, x-rays were performed which revealed lung pneumonia. It was noted that Claimant was given nebulized mist treatment. It was noted that Claimant received antibiotics and her condition improved. Complaints of abdominal pain were also noted. Claimant's risk status was categorized as ASA 2; ASA 2 refers to a mild-to-moderate system disturbance. Claimant underwent psychological evaluation based on complaints of depression. An Axis I diagnosis of adjustment disorder was noted. Claimant's symptoms were described as mild. Claimant's GAF was 61-70. Noted discharge diagnoses included pneumococcal pneumonia, pleural effusion, pulmonary insufficiency, hypoxia, hypokalemia, and esophageal reflux. A discharge date of [REDACTED] was noted. Discharge medications included Levaquin, alburol inhaler, Protonix, and Vicodin.

Hospital treatment documents (Exhibits 26-29; A21-A24) dated [REDACTED] were presented. It was noted that Claimant was recently hospitalized and discharged with home oxygen. It was noted that Claimant was positive for dyspnea. It was noted that chest radiology showed "much improvement". Mild residual bibasilar atelectasis was noted.

Medical clinic documents (Exhibits 33-35) dated [REDACTED] were presented. It was noted that Claimant reported a dizzy spell. Treatment for blood pressure was noted.

Medical clinic documents (Exhibits 31-32) dated [REDACTED] were presented. It was noted that Claimant has recovered well from recent pneumonia and empyema. It was noted that Claimant reported hot flashes and "a little" right-side pain.

A physical examination report (Exhibits 127-132; A4-A8) dated [REDACTED] was presented. The report was signed by a consultative physician. It was noted that Claimant reported chronic back pain since a steel object fell on her at work, 10 years prior. It was also

noted that Claimant reported a history of blood clots, for which she was to take blood thinner medication but did not due to a lack of insurance. Claimant also reported that she has experienced dyspnea since a 2013 hospitalization for pneumonia. Claimant also reported foot pain and edema. Claimant's muscle strength was noted to be 5/5 in all extremities. Pitting edema of 2/4 was noted. It was noted that Claimant had a mild limp to the left. Straight-leg raising test was noted as negative. It was noted that Claimant had limited squatting ability. Joint ranges of motions were all noted as normal. It was noted that Claimant had a mass on her foot; the mass was noted to possibly be a heel spur. Claimant's blood pressure was noted as mildly pre-hyper-intensive.

A mental status examination report (Exhibits 122-126; A10-A15) dated [REDACTED] 3 was presented. The report was completed by a licensed psychologist. It was noted that Claimant reported hopelessness with physical problems and poor sleep. A distant history of drugs was noted; a distant suicide attempt was also noted. Notable observations of Claimant included the following: adequate grooming, adequate contact with reality, diminished self-esteem, intact judgment and insight, cooperative, verbally responsive, good eye contact, talkative, logical and organized stream of mental activity, and anhedonic mood. Primary diagnoses of acute stress disorder and adjustment disorder were noted. Claimant's prognosis was fair. The examining psychologist noted that Claimant needs to be in mental health treatment. Mild impairments were noted in the following: social interactions, understanding and remembering tasks, and maintaining concentration. Moderate impairments were noted in Claimant's ability to withstand stress. It was opined that Claimant could perform some complex tasks but that Claimant may be mild-to-moderately in performing multiple step tasks.

A Medical Examination Report (Exhibits A1-A2) dated [REDACTED] was presented. The form was completed by a treating physician with an approximate 12 month history of treating Claimant. Claimant's physician listed diagnoses of hypertension, GERD, insomnia, and back pain. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs.

Physician office visit documents (Exhibit B3) dated [REDACTED] were presented. It was noted that Claimant reported a swollen leg, ongoing for 2 weeks, and foot pain, ongoing for 2 months. It was noted that Claimant had a 93% asymptomatic oximetry. It was noted that a foot x-ray would be ordered.

Though Claimant now has Medicaid coverage, the coverage was only recently obtained. Claimant testified that she hopes to obtain treatment for her many complaints such as difficulty with walking, lower back pain, GERD, and leg swelling.

Presented documents verified treatment for GERD. Claimant testified that she does not have any restrictions for GERD, as long as she takes her medication. Access to medication should not be an issue as Claimant is MA eligible since 6/2014. Accordingly, Claimant does not have a severe impairment related to GERD.

A diagnosis of hepatic steatosis was provided. The diagnosis is also known as fatty liver disease. Claimant testified credibly that she had hepatitis C, which is understood to be a cause of hepatic steatosis. The diagnosis was from 2012. Evidence of follow-up treatment was minimal. The lack of follow-up treatment is suggestive that Claimant does not have long-term restrictions related to hepatic steatosis.

Claimant alleged that she is restricted in walking due to a bone spur in her foot. Claimant alleged that her lifting/carrying and walking are adversely affected by lower back pain. Claimant also testified that her ambulation is further affected by leg swelling. Claimant's testimony was consistent with presented evidence. Medical evidence also established that Claimant's walking and lifting restrictions have lasted since 3/2013, the first month that Claimant seeks MA benefits. It is found that Claimant has a severe impairment and the analysis may proceed 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.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of foot pain related to a bone spur. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's LBP complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for chronic pulmonary insufficiency (Listing 3.02) was considered based on Claimant's complaints of dyspnea. The listing was rejected due to a lack of respiratory testing evidence.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

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 performed past employment as a sales representative for a perfume company, Claimant testified that the smell of perfume is bad for her health and that her past employment required too much standing. For purposes of this decision, it will be found that Claimant is unable to perform 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 medium employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday. Medium employment requires comparable standing and walking standards, but with a heavier lifting requirement than light employment.

Claimant's physician stated in a Medical Examination Report that Claimant could perform occasional lifting of less than 10 pounds, though it was not stated whether Claimant could lift/carry heavier weights. Standing and sitting restrictions were not

addressed. Back radiology was not presented. The evidence was suggestive that Claimant could perform medium employment.

Claimant's physician opined that Claimant was restricted from performing repetitive actions with her hands/arms such as grasping, pushing/pulling, reaching, fine manipulating, and operating foot controls. Typical diagnoses associated with such restrictions are carpal-tunnel syndrome and/or arthritis. Claimant's medical history contained no known basis to justify hand and/or arm restrictions. Claimant's most recently documented physician visits were also not very supportive of finding restrictions that would prevent the performance of medium employment.

Physician office visit documents (Exhibits B5-B6) dated [REDACTED] were presented. It was noted that Claimant had a left foot x-ray; a normal left-foot x-ray impression was noted (see Exhibit B8). It was noted that a doppler of Claimant's legs was normal. It was noted that a chest x-ray was normal.

Hospital documents (Exhibits C1-C5) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of abdominal pain and painful urination. A physical examination noted no abdominal abnormalities. The following impressions were noted: probable cyst on kidney, mild osteopenia with degenerative lumbar changes, and bibasilar atelectasis. A urinary tract infection was noted.

Mild osteopenia and degenerative lumbar changes are suggestive of restrictions. Back radiology and bone testing results were not presented. The mere diagnoses are insufficient to infer restrictions that prevent the performance of medium employment.

It was established that Claimant had a bone spur. A diagnosis of a bone spur, by itself, is insufficient to infer that Claimant is unable to perform the requirements of medium employment.

Hospital admissions and treatment for a urinary tract infection and pneumonia were verified. Claimant's oxidation results are understood to be only slightly less than normal. "Asymptomatic" oximetry is consistent with an absence of breathing problems. The evidence did not suggest long-term urinary tract or respiration problems for Claimant.

Based on the presented evidence, it is found that Claimant is capable of performing medium employment. Hospital treatment for psychological disorders was verified. Any restriction based on psychological problems was rejected due to the lack of follow-up treatment.

Claimant turned 55 years of age in 8/2013. Thus, different medical-vocational rules must be applied to account for Claimant's change in age category.

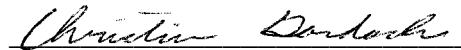
For purposes of Claimant's MA eligibility through 7/2013, based on Claimant's exertional work level (medium), age (closely approaching advanced age), education (high school equivalency- no direct entry into skilled employment), employment history

(semi-skilled with no known transferrable skills), Medical-Vocational Rule 203.22 is found to apply. This rule dictates a finding that Claimant is not disabled.

For purposes of Claimant's MA eligibility after 7/2013, based on Claimant's exertional work level (medium), age (advanced age), education (high school equivalency- no direct entry into skilled employment), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 203.15 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 from 3/2013, 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: 9/16/2014

Date Mailed: 9/16/2014

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:

