

5. Claimant alleged physical disabling impairment(s) due to chronic heart failure, hypertension, stroke, and joint pain.
6. On the date of the hearing, Claimant was 53 years old with a [REDACTED] birth date; he is 5'10" in height and weighs about 220 pounds.
7. Claimant graduated from high school.
8. Claimant has an employment history of work as a truck owner/driver; safety manager; and dispatcher. He is currently employed part-time at [REDACTED] in the stock room as a back room associate.
9. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

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.

MA-P benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2014); BEM 261 (July 2013), p. 1. In order to receive MA-P benefits based upon disability, Claimant must be disabled as defined in Title XVI of the Social Security Act (SSA). 20 CFR 416.901. Under the SSA, disability for MA-P purposes is 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).

To determine whether an individual is disabled, federal regulations require application of a five-step sequential evaluation process that requires the trier of fact to consider (1) whether the individual is engaged in SGA; (2) whether the individual's impairment is severe; (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) whether the individual has the residual functional capacity to perform past relevant work; and (5) whether the individual has the

residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (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 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).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. 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, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is substantial gainful activity (SGA), then the individual must be considered as not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant testified that he is currently employed at [REDACTED] in the stock room as a back room associate for 20 to 30 hours weekly at \$8.15 per hour. Claimant further testified that, because of the lifting limitations imposed by his cardiologist, he was advised by his employer that he would never be offered full-time employment. Based on Claimant's testimony, his current employment is not SGA. Therefore, Claimant is not ineligible under Step 1 and the analysis continues to Step 2.

Step Two

Under Step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for MA-P means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 12 months. 20 CFR 416.922.

object off the ground without difficulty or use of an assistive device. His grip strength was normal, and his hands had full dexterity. The doctor assessed Claimant's motor strength as 5/5 in the upper and lower extremities and noted that he did not use an assistive device for ambulation. The doctor also noted that Claimant self-reported working at [REDACTED] doing light lifting with a 20 pound weight restriction imposed by his cardiologist and wearing a weight belt at work. The doctor concluded that Claimant appeared in no acute distress and was otherwise well.

[REDACTED] Claimant's cardiologist completed a Medical Examination Report, DHS-49, identifying Claimant's diagnoses as coronary disease, hypertension and ischemic cardiomyopathy with an ejection fraction of 35. The cardiologist concluded that Claimant was in stable condition with the following physical limitations: (i) Claimant could lift less than 10 pounds frequently (2/3 of an 8-hour day), 10 pounds occasionally (1/3 of an 8-hour day), and never 20 pounds or more; (ii) he could stand and/or walk less than 2 hours in an 8-hour workday; and (iii) he could not use either hand/arm to push or pull. There were no restrictions on Claimant's ability to sit; to use his hand and/or arms to grasp, reach and manipulate; or to use his feet/legs to operate controls. No mental limitations were noted. The doctor concluded that Claimant could meet his own needs in the home.

In consideration of the *de minimus* standard necessary to establish a severe impairment under Step 2, in light of the ongoing limitations cause by Claimant's chronic heart failure, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 12 months. Therefore, Claimant has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual'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 an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the objective medical evidence showing diagnosis of, and treatment for, chronic heart failure and ischemic cardiomyopathy, listings 4.02 (chronic heart failure) and 4.04 (ischemic heart failure) were considered; Claimant's diagnosis and treatment for hypertension are also considered under those listings. See listing 4.00(H)(1). Claimant's medical records do not support a finding that his medical condition meets, or is equal to, either listing. Therefore, the disability analysis proceeds to Step 4.

It is noted that Claimant testified that he had suffered a stroke [REDACTED] and consequently had numbness on the left side of his body. There was also reference to joint pain in the file. However, there was no medical evidence presented supporting

Claimant's testimony of either a stroke or any physical limitations with respect to Claimant's left side or with respect to joint pain. To the contrary, in the [REDACTED] consultative exam, the consulting doctor found that Claimant's range of motion was normal in all joints, that he was able to walk regularly on tip toes and heels and bend over to pick up an object off the ground without difficulty or use of an assistive device, that his grip strength was normal and his hands had full dexterity, and that his motor strength was 5/5 in the upper and lower extremities and no assistive device was used for ambulation. Consequently, Claimant's allegations concerning a stroke and joint pain were not considered in assessing whether his physical condition met a listing.

Residual Functional Capacity

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Step 4, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. Impairments, and any related symptoms, may cause physical and mental limitations that affect what a person can do in a work setting. 20 CFR 416.945(a)(1). RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s) and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4). The total limiting effects of all impairments, including those that are not severe, are considered. 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants 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).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b). To determine the exertional requirements, or physical demands, of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a).

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.

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. 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. If someone can do light work, ... he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

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, ... he or she can also do sedentary and light work.

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, ... he or she can also do medium, light, and sedentary work.

Very heavy work.

Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, ... he or she can also do heavy, medium, light, and sedentary work. 20 CFR 416.967.

In this case, Claimant alleges solely physical limitations as a result of his impairments. He testified that he was unstable and had trouble walking, standing, bending and squatting. However, he stated that he could sit. He further testified that he completed most of his day-to-day activities without assistance, including bathing, cooking, cleaning, laundry, shopping and driving.

Claimant's cardiologist identified the following limitations based on Claimant's condition: (i) lift less than 10 pounds frequently (2/3 of an 8-hour day), 10 pounds occasionally (1/3 of an 8-hour day), and never 20 pounds or more; (ii) stand and/or walk less than 2 hours in an 8-hour workday; and (iii) use neither hand/arm to push or pull. There were no restrictions on Claimant's ability to sit; to use his hand and/or arms to grasp, reach and manipulate; or to use his feet/legs to operate controls. No mental limitations were noted.

Based on a review of the entire record to include Claimant's testimony, it is found based on Claimant's physical conditions that Claimant maintains the physical and mental capacity to perform sedentary work as defined by 20 CFR 416.967(a). Claimant's RFC is considered at both Steps 4 and 5. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

The fourth step in analyzing a disability claim requires an assessment of Claimant's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed within the past 15 years that was an SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. 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).

As determined in the RFC analysis above, Claimant is limited to no more than sedentary work activities. Claimant's work history in the 15 years prior to the application consists of work as a truck owner/driver, which did not involve loading or unloading duties (semi-skilled, sedentary), a safety manager, which he described as an office job with 80% sedentary (semi-skilled, sedentary), and a dispatcher (unskilled, sedentary) with safety inspector duties (semi-skilled, light). In light of the entire record and Claimant's RFC, it is found that Claimant is able to perform past relevant work. Accordingly, Claimant is **not** disabled at Step 4.

It is further noted that, in Step 5, there is no disability if an assessment of an individual's RFC and age, education, and work experience shows that the individual can adjust to other work. 20 CFR 416.920(4)(v); 20 CFR 416.963(c). After review of the entire record and in consideration of Claimant's age of 53, which classifies him as closely approaching advanced age, his high school education, his semi-skilled and unskilled work experience, and his RFC to do sedentary activity, and using the Medical-Vocational Guidelines (20 CFR 404, Subpart P, Appendix II) as a guide, specifically Rule 201.15, if the analysis continued to Step 5, Claimant would also be found **not** disabled at Step 5.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds Claimant **not** disabled for purposes of the MA-P benefit program.

Accordingly, it is ORDERED that the Department's determination is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/15/2014**

Date Mailed: **10/15/2014**

ACE / pf

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]
[REDACTED]