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

IN THE MATTER OF:

[redacted]

Reg. No.: 2014-28766
Issue No.: 2009
Case No.: [redacted]
Hearing Date: August 7, 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 August 7, 2014, from Detroit, Michigan. [redacted] testified and appeared as Claimant's authorized hearing representative (AHR) / legal counsel. Participants on behalf of the Department of Human Services (DHS) included [redacted], Medical Contact Worker.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 4/2013 (see Exhibits 11-12).

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 (see Exhibits 15-16).

4. On [redacted], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant's AHR 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 application of Medical-Vocational Rule 202.14.

7. On [redacted], Claimant died.

8. At the time of her death, Claimant was a 53 year old female.

9. Claimant has a relevant history of alcohol abuse.

10. Claimant's highest education year completed was the 12th grade.

11. Claimant alleged disability based on chronic liver disease.

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

It should also be noted that authorized hearing representatives are required to obtain circuit court authorization to represent deceased clients. Claimant's AHR presented documentation dated [redacted] verifying their authorization for representation of Claimant. On [redacted], Claimant's AHR was appointed as a special personal representative for Claimant's estate.

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

Claimant died on [redacted]. Presumably, DHS processed (or will) process Medicaid for Claimant for the benefit month of 6/2014. Claimant's AHR disputes Claimant's MA eligibility from 4/2013-5/2014. Claimant may not be considered for Medicaid eligibility for 4/2013-5/2014 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 CRF 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.

Generally, the best evidence to establish a lack of SGA is a client's testimony. Generally, when a client fails to testify concerning SGA, a client cannot establish step one of the disability analysis. Claimant cannot present any SGA testimony because of death. Finding that a claimant is not disabled (other than the month of death), because a dead claimant failed to testify concerning a lack of SGA would create an immensely unjust outcome. When a client is unable to testify due to death, it is appropriate to consider other evidence to determine whether a client performed SGA at any time after applying for MA benefits.

A Medical-Social Questionnaire (Exhibits 20-22) dated [redacted] was presented. The form was completed by a self-described Medicaid Advocate. Presumably the advocate completed the form after discussions with Claimant. The form included Claimant's work history which noted that Claimant last worked in 2003. This evidence is supportive in finding that Claimant has not been employed since at least 4/2013, the earliest month of MA benefits requested. Based on the presented evidence, 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 F2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

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

Hospital documents (Exhibits B36-B48) from an admission dated [redacted] were presented. It was noted that Claimant reported getting up from a sitting position and striking her head on a counter-top; the fall occurred on [redacted]. Claimant's blood sugar was noted to be 44. It was also reported that Claimant experienced altered mental status and multiple falls which prompted her hospital visit. It was noted that a CT of Claimant's head revealed atrophy with no acute intracranial process. A 30 year drinking history was noted. It was noted that Claimant reported to have quit drinking one week prior though a drug screening uncovered an alcohol level and opiate use. It was noted that Claimant reported use of unprescribed Vicodin. It was noted that a CT of Claimant's cervical spine showed degenerative changes, most notable at C5-C6; stenosis and nerve root compromise were not noted. A discharge date was not apparent but is presumed to be 4/18/13, the last date that medical notes were updated.

Hospital documents (Exhibits 41-55) from an admission dated [redacted] were presented. It was noted that Claimant presented with complaints of abdominal distention and pain. An impression of "a large amount" of symptomatic ascites was noted. An impression of likely decompensated cirrhosis or severe EtOH hepatitis was also noted. It was noted that Claimant underwent CT guided abdominal paracentesis where 6 liters of fluid was removed. It was noted that Claimant was a drinker though Claimant reported that she "cut down". A discharge date of [redacted] was noted.

Hospital documents (Exhibits 26-40; B20-B25) from an admission dated [redacted] were presented. It was noted that Claimant presented with complaints of abdominal pain; the problem was noted as recurrent. Abdominal distention was noted. The following problems were noted as active: cirrhosis (secondary to alcohol abuse), Hepatitis C, ascites, hypoglycemia, and abdominal pain. It was noted that Claimant was advised to cease alcohol use and to quit smoking. A physical examination noted the following: normal range of motion, no arthralgias, bilateral pitting 2+ edema, and hypoactive bowel

sounds. It was noted that Claimant underwent successful abdominal paracentesis and that 6 liters of liquid was drained. A discharge date was not apparent but is presumed to be 9/10/13, the last date that medical notes were updated.

Hospital documents (Exhibits B13-B19; B26-B35) from an admission dated [redacted] were presented. Admission observations of Claimant included chest telangiectasia (aka spider veins) and prominent and deeply jaundiced erythema. It was noted that Claimant showed left abdominal ascites. It was noted that Claimant "loved" beer and expressed difficulty in quitting drinking. It was noted that Claimant underwent two paracentesis procedures (a total of 10 liters of fluid was withdrawn) and felt better. Discharge recommendations noted continuing Aldactone and switching to lasix once per day. It was noted that a social worker was contacted for a consultation of EtOH abuse. It was noted that Claimant was instructed to cease alcohol and tobacco abuse. A discharge date of [redacted] was noted.

Hospital documents (Exhibits B1-B12) from an admission dated [redacted] were presented. It was noted that Claimant presented with a 15 pound weight gain over 3 weeks. It was noted that Claimant felt better after 5 liters of clear fluid were removed, via paracentesis; no complications were noted. Physical examination findings included the following: alert, cooperative, no distress, normal HEENT, unlabored respiration, no chest tenderness, regular heart rhythm, non-tender abdomen, normal skin color, normal strength and reflexes.

Hospital documents (Exhibits A1-A12) from an admission dated [redacted] were presented. It was noted that Claimant presented with complaints of abdominal pain and swelling. It was noted that Claimant had not taken medications in 2 months due to a lack of money. It was noted that Claimant underwent paracentesis which removed 6 liters of fluid. It was noted that Claimant was scheduled for another paracentesis in one week. A discharge diagnosis of ascites was noted. A discharge date of [redacted] was noted.

Hospital documents (Exhibits A13-A24) from an admission dated [redacted] were presented. It was noted that Claimant arrived approximately 5:50 p.m. It was noted that Claimant presented with altered mental status with fall. A history of liver cirrhosis was noted. Noted physical examination findings included the following: jaundiced skin, decreased breath sounds, lethargic, neurologically unresponsive, and abdominal distention with ascites. It was noted that a CT of Claimant's head revealed no acute intracranial process. It was noted that Claimant was urgently intubated and that CPR was performed. It was noted that Claimant underwent multiple cardiac arrests and life savings measures. It was noted that Claimant was pronounced dead on [redacted] at 1:56 a.m.

Claimant's death before hearing prevents testimonial description of restrictions. Presented medical records allow the inference of some restrictions.

It was verified that Claimant had brain atrophy. The diagnosis, by itself, renders it probable that Claimant had some degree of cognitive functioning difficulties.

Diagnosis of liver disease and cirrhosis were verified. The diagnoses were consistent with Claimant's repeated trips to the emergency room. As noted by Claimant's AHR, brain atrophy is consistent with liver disease that has progressed beyond an early stage. Symptoms of fatigue and weakness are consistent with liver disease. Some degree of restrictions to Claimant's work abilities can be inferred.

The medical evidence also established that Claimant's restrictions have lasted since 4/2013, 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.

5.05 Chronic liver disease, with:

A. Hemorrhaging from esophageal, gastric, or ectopic varices or from portal hypertensive gastropathy, demonstrated by endoscopy, x-ray, or other appropriate medically acceptable imaging, resulting in hemodynamic instability as defined in 5.00D5, and requiring hospitalization for transfusion of at least 2 units of blood. Consider under disability for 1 year following the last documented transfusion; thereafter, evaluate the residual impairment(s).

OR

B. Ascites or hydrothorax not attributable to other causes, despite continuing treatment as prescribed, present on at least 2 evaluations at least 60 days apart within a consecutive 6-month period. Each evaluation must be documented by:

1. Paracentesis or thoracentesis; or
2. Appropriate medically acceptable imaging or physical examination and one of the following:
    a. Serum albumin of 3.0 g/dL or less; or
    b. International Normalized Ratio (INR) of at least 1.5.

OR

C. Spontaneous bacterial peritonitis with peritoneal fluid containing an absolute neutrophil count of at least 250 cells/mm3.

OR

D. Hepatorenal syndrome as described in 5.00D8, with on of the following:

1. Serum creatinine elevation of at least 2 mg/dL; or
2. Oliguria with 24-hour urine output less than 500 mL; or
3. Sodium retention with urine sodium less than 10 mEq per liter.

OR

E. Hepatopulmonary syndrome as described in 5.00D9, with:

1. Arterial oxygenation (PaO2) on room air of:
    a. 60 mm Hg or less, at test sites less than 3000 feet above sea level, or
    b. 55 mm Hg or less, at test sites from 3000 to 6000 feet, or
    c. 50 mm Hg or less, at test sites above 6000 feet; or

2. Documentation of intrapulmonary arteriovenous shunting by contrast-enhanced echocardiography or macroaggregated albumin lung perfusion scan

OR

F. Hepatic encephalopathy as described in 5.00D10, with 1 and either 2 or 3:

1. Documentation of abnormal behavior, cognitive dysfunction, changes in mental status, or altered state of consciousness (for example, confusion, delirium, stupor, or coma), present on at least two evaluations at least 60 days apart within a consecutive 6-month period; and

2. History of transjugular intrahepatic portosystemic shunt (TIPS) or any surgical portosystemic shunt; or

3. One of the following occurring on at least two evaluations at least 60 days apart within the same consecutive 6-month period as in F1:

a. Asterixis or other fluctuating physical neurological abnormalities; or

b. Electroencephalogram (EEG) demonstrating triphasic slow wave activity; or

c. Serum albumin of 3.0 g/dL or less; or

d. International Normalized Ratio (INR) of 1.5 or greater.

OR

G. End stage liver disease with SSA CLD scores of 22 or greater calculated as described in 5.00D11. Consider under a disability from at least the date of the first score.

Claimant's multiple hospital admissions for ascites requiring paracentesis are persuasive evidence that Claimant meets subsection B of the above listing. The listing, however, also requires that Claimant follow prescribed treatment.

Claimant's hospital documents from 8/2013, 9/2013, and 10/2013 admission verified that Claimant continued alcohol use despite physician recommendations to quit. Continued alcohol consumption could reasonably have caused repeated hospital admissions.

Some analysis requires determining whether Claimant's hospital admissions were preventable. Alcohol consumption by a person with chronic liver disease can be presumed to be a substantial factor in causing ascites without evidence suggesting otherwise.

Evidence of late stage liver disease is consistent with a finding that ascites would have occurred even without Claimant's ongoing alcohol abuse. Presented documents did not provide descriptions of Claimant's stage of liver disease for the non-physician. For example, severe/moderate/mild or early/late descriptors were not apparent. Unequivocal evidence of late stage liver disease (e.g. need for liver transplant, gastro-intestinal bleeding, or hepatic encephalopathy) were not verified.

Jaundiced skin was noted in an admission from 10/2013. Two months later, Claimant's skin was described as normal. The reversal tended to suggest that Claimant's liver disease was serious, but also manageable.

As noted in step 2, brain atrophy is consistent with finding that liver disease is beyond early stages. Brain atrophy was caused by Claimant's alcoholism, not liver disease. It is not a particularly insightful condition in identifying Claimant's liver disease stage.

Claimant's hospital documents also tended to suggest that Claimant's failure to take prescribed medications was a large factor in ongoing abdominal fluid retention. This is consistent with Claimant's hospital-free period from 1/2014 through 5/2014.

Presented evidence did not verify that liver disease caused Claimant's death. Thus, Claimant's death is not particularly indicative of restrictions caused by liver disease. It is found that Claimant did not follow prescribed treatment for chronic liver disease due to her continued alcohol use and/or failure to take prescribed medication.

A listing for intellectual disabilities (Listing 12.05) was considered based on a finding of brain atrophy. The listing was rejected due to a failure to present intelligence testing or any other evidence suggestive of low cognitive function.

Accordingly, Claimant did not meet a SSA listing and the analysis may proceed 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.

Documentary evidence stated that Claimant had former employment involving taking care of a family member and as a dog groomer (see Exhibits 20-21). Based on the job titles of Claimant's past employment, it is questionable whether the employment amounted to SGA. For purposes of this decision, it will be found that Claimant is unable to perform past employment and/or that Claimant's employment did not amount to SGA. Accordingly, 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).

Physician statements of specific restrictions were not presented. Specific restrictions can be inferred based on the presented medical evidence.

Claimant's AHR contended that evidence of brain atrophy is highly indicative of advanced chronic liver disease which would render Claimant disabled. Atrophy was noted only in Claimant's 4/2013 hospitalization. Subsequent admission did not note any abnormal functioning by Claimant that would suggest disabling functioning restrictions. A diagnosis of mild atrophy could reasonably restrict Claimant from performing complex employment.

Claimant's AHR also emphasized that Claimant experienced altered mental status which is consistent with disabling liver disease. Claimant's altered mental status was noted in a hospital admission from 6/2014, the admission when Claimant died. Before Claimant's month of death, altered mental status was only noted in 4/2013. It was noted that Claimant's altered mental status was likely due to hyperglycemia, though chronic alcohol abuse was also noted as a possibility. Thus, advanced liver disease cannot be presumed based on Claimant's altered mental status.

Some cervical spine abnormalities were verified by radiology. The absence of stenosis, nerve root compromise, and follow-up medical treatment justify a finding that Claimant did not have significant walking or ambulation restrictions related to neck problems. There was also no evidence of gait problems.

Pitting edema was noted in one admission. Edema is generally consistent with cardiac complications and/or liver disease. The evidence was generally absent of cardiac testing, diagnoses and restrictions. The condition was only noted on one admission (9/2013). The lack of recurrence of the symptom was suggestive that it was an acute symptom. The same can be concluded for jaundice (noted in a 10/2013 admission, but not 12/2013 admission).

When factoring Claimant's alcohol consumption and medical noncompliance, the evidence was generally indicative that Claimant was capable of performing the lifting/carrying and standing required of light employment. It is found that Claimant was capable of performing light employment.

Based on Claimant's exertional work level (light), age (approaching advanced age), education (high school- no direct entry into skilled work), employment history (unskilled), Medical-Vocational Rule 202.13 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 form 4/2013, 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: 10/7/2014

Date Mailed: 10/7/2014

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: [redacted]