

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011757
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: November 19, 2014
County: Wayne (76)

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, an in-person hearing was held on November 19, 2014 from Detroit, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's spouse, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) 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 SDA and MA benefits, including retroactive MA benefits from 2/2014.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On [REDACTED] the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).
4. On [REDACTED], DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On [REDACTED], Claimant requested a hearing disputing the denial of MA and SDA benefits.
6. As of the date of the administrative hearing, Claimant was a 50 year old male with a height of 5'9" and weight of 135 pounds.
7. Claimant has no known relevant history of alcohol or illegal substance abuse.
8. Claimant's highest education year completed was the 12th grade.
9. As of the date of the administrative hearing, Claimant was an ongoing Healthy Michigan Plan recipient since approximately 6/2014.
10. Claimant alleged disability based on impairments and issues including right nerve damage, left leg nerve damage, bleeding ulcers, left hip pain, post-traumatic stress disorder (PTSD), and congestive heart failure (CHF).

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, there was some question whether Claimant applied for retroactive MA benefits. Claimant was uncertain if he did. In the DHS Hearing Summary, DHS conceded that Claimant applied for retroactive MA benefits, but DHS did not state for which months. DHS could have verified what months that Claimant applied for retroactive MA benefits by providing an application. During the hearing, DHS was unable to furnish an application. Based on the presented evidence, it is found that Claimant requested three months (the maximum amount- see BAM 110) of retro MA coverage.

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 2014 monthly income limit considered SGA for non-blind individuals is \$1,070.

Claimant credibly denied performing any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. 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 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 a summary of the relevant submitted medical documentation and Claimant’s testimony.

Claimant testified that he suffered multiple gunshot wounds. Claimant testified that in 2003 he was shot in his left hip, left leg, right arm, and chest. Claimant testified that 3 of 4 bullets were surgically removed but that a chest bullet was dangerously close to his heart and left alone for precautionary measures. Claimant testified that his right arm and left leg suffered nerve damage which causes him pain and restrictions. Claimant testified that his left hip is regularly achy, though Claimant testified that he learned to live with that pain.

An x-ray and urethrogram report (Exhibit 92) dated [REDACTED] was presented. An impression of a ruptured intravenous system was noted. It was also noted that “a few” metallic fragments in the right forearm and left thigh remained.

An x-ray report of Claimant’s left hip (Exhibit 94) dated [REDACTED] was presented. An impression of tiny metallic fragments indicative of GSW was noted.

A chest radiology report (Exhibit 93) dated [REDACTED] was presented. A bullet in the left anterior chest wall was noted, though the report was otherwise “negative”

A Psychiatric Evaluation (Initial) (Exhibits 47-51) dated [REDACTED]. Based on the form’s title, the evaluation was presumably completed at an initial evaluation by a treating mental health agency. It was noted that Claimant reported feeling depressed; specific depression symptoms were not noted. A diagnosis of major depressive disorder was noted. Claimant’s GAF was noted as 45.

Handwritten medical center treatment documents (Exhibits 68-69) dated [REDACTED] were presented. Diagnoses of radiculopathy and CHF were noted.

Handwritten medical center treatment documents (Exhibits 70-71) dated [REDACTED] were presented. A diagnosis of ulcerative colitis was noted.

Handwritten medical center treatment documents (Exhibits 78-79) dated [REDACTED] were presented. It was noted that Claimant appeared for a check-up for right arm pain.

Hospital documents (Exhibits 52-67) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of abdominal pain, rectal pain, and

nausea, ongoing for 1 week. It was noted that Claimant was a heavy drinker and daily smoker. It was noted that Claimant had hemorrhoids which likely caused rectal bleeding. A final impression of gastritis v. ulcer probably secondary to alcohol/tobacco use was noted.

Handwritten medical center treatment documents (Exhibits 74-75) dated [REDACTED] were presented. Claimant reported right arm and left leg pain; diagnoses of pain from gunshot wounds, peripheral neuropathy, and systolic CHF were noted.

Handwritten medical center treatment documents (Exhibits 8-81) dated [REDACTED] were presented. A refill of pain, cardiac, and neuropathic meds was noted; a referral to a pain clinic was noted.

A Psychiatric Evaluation (Exhibits 35-40) dated [REDACTED] was presented. It was noted that Claimant was a no-show since 1/2013. It was noted that Claimant reported difficulty with being social and that he "feels unbalanced". Notable observations of Claimant included the following: unremarkable appearance, unremarkable interview behavior, unremarkable motor status, unremarkable speech, constricted affect, depressed mood, unremarkable memory, unremarkable perception, orientation x3, and unremarkable thought process. Diagnosis of PTSD and major depressive disorder were noted. Claimant's GAF was noted to be 30.

A Medical Activity Ticket from a treating nurse (Exhibit 34) dated [REDACTED] was presented. Treatment for gastric ulcers was noted.

A Medical Activity Ticket from a treating psychiatrist (Exhibit 33) dated [REDACTED] 3 was presented. It was noted that Claimant reported depression and forgetfulness, ongoing for 2 months. It was noted that Claimant drank beer; encouragement to attend AA was noted. It was noted that Claimant was hesitant about taking previously prescribed Celexa; suspicion of malingering was noted.

A Psychosocial Assessment from a social worker and counselor (Exhibits 26-32) dated [REDACTED] was presented. It was noted that Claimant presented for an annual assessment from a treating mental health agency. It was noted that Claimant reported the following: fear of noises, panic attacks, crying spells, insomnia, and racing thoughts. It was noted that Claimant reported thoughts of an armed robbery from several years prior. Claimant's GAF was noted to be 45.

A Treatment Plan Meeting from a social worker (Exhibits 22-25) dated [REDACTED] was presented. Claimant reported that he hopes his physical pain goes away so that he can start his life again. It was noted that Claimant reported daily depression symptoms, though none were specified.

An internal medicine examination report (Exhibits 15-21) dated [REDACTED] was presented. The report was noted as completed by a consultative physician. It was noted that

Claimant reported right arm and left leg dysfunction due to nerve damage caused by bullets. The examiner noted that Claimant walks with a cane and a left-sided limp. Reduced right grip strength (4/5) was noted. The following motion ranges were noted as restricted: lumbar flexion, bilateral hip forward flexion, and right-sided finger flexion and extension. It was noted that Claimant was able to perform all 23 listed work-related activities (e.g. sitting, standing, lifting, carrying, stooping, bending, and reaching) but with pain and difficulty. It was noted that gunshot wounds and neuropathy caused Claimant pain. The examiner opined that Claimant needs long-term care and management. The examiner opined that Claimant may have difficulty with prolonged standing, stooping, squatting, lifting, and bending. The examiner opined that Claimant would have difficulty with repetitive use of his right extremity.

A Medical Examination Report (Exhibits 103-105) dated [REDACTED] was presented. The form was completed by an internal medicine physician with an approximate 10 year history of treating Claimant. Claimant's physician listed diagnoses of systolic CHF, coronary artery disease (CAD), COPD, lumbar spondylosis, and left leg pain. It was noted that Claimant has neuropathic pain and that he uses a cane due to left leg pain. An impression was given that Claimant's condition was deteriorating. It was noted that Claimant cannot meet household needs of shopping, preparing meals, or laundry.

Presented documentation verified that Claimant has left leg pain, right arm pain, and restrictions due to nerve damage caused by GSW injuries and/or neuropathy. The evidence was consistent with Claimant's testimony that he has ongoing ambulation, and lifting/carrying difficulties.

Presented documents also verified that Claimant has a history of depression treatment. Claimant testified that his chronic pain adversely affects his psyche. Based on the presented evidence, a degree of concentration and/or social interaction restrictions can be inferred.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. It is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move 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 hip, leg, and arm dysfunction. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively or that Claimant is unable to perform fine and gross movements.

A listing for spinal disorders (Listing 1.04) was considered based on a diagnosis of lumbar radiculopathy. 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 a diagnosis of COPD. The listing was rejected due to a lack of respiratory testing evidence.

Cardiac-related listings (Listing 4.00) were considered based on Claimant's cardiac treatment history. Claimant failed to meet any cardiac listings.

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.

A listing for peripheral neuropathies (Listing 11.14) was factored based on a documented diagnosis. The listing was rejected due to a failure to establish significant and persistent disorganization of motor function in two extremities.

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.

A Medical-Social Questionnaire (Exhibits 12-14) dated [REDACTED] was presented. The form was unsigned, but presumed to have been completed by Claimant. Claimant's only listed previous employment was factory work performed from 1995-2009. Claimant testified that his job primarily involved loading and unloading trucks. Claimant testified that he was required to push and pull pallets, drive a hi-low, and perform lifting of up to 50-70 pounds. Claimant testified that he cannot perform the ambulation or

lifting/carrying required of his past job. Claimant's testimony was consistent with the presented evidence. It is found that Claimant cannot 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).

Claimant turned 50 years old in 6/2014, one month after he applied for MA benefits. Based on Claimant's age change, education, and employment history, a disability determination must consider Claimant's ability to perform sedentary employment for the months before Claimant's 50th birthday. Claimant's disability following his 50th birthday is dependent upon his ability to perform light 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.

A disability determination before Claimant's 50th birthday is dependent upon his ability to perform sedentary employment. For sedentary employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

Physician statements of restrictions were provided. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*.

In a Medical Examination Report (MER) dated [REDACTED], Claimant's physician did not state that Claimant had sitting restrictions. Generally, an absence of sitting restrictions is consistent with finding that a claimant is capable of performing sedentary employment.

On the MER, Claimant's physician opined that Claimant was restricted from performing left-arm and left-leg repetitive actions. Presumably, Claimant's physician intended to restrict Claimant from performing repetitive right-arm motions due to Claimant's GSW injuries. Claimant credibly testified that he is right-handed. Claimant's right arm dysfunction would make many sedentary duties extraordinarily difficult. For example, typing and writing are typical sedentary duties. Claimant would have immense difficulty with writing or typing without use of his dominant arm or hand. This consideration supports a finding that Claimant is not capable of performing sedentary duties.

Claimant's physician opined that Claimant was restricted to less than 2 hours of standing and/or walking per 8 hour workday. Claimant's physician completely restricted Claimant from performing lifting or carrying. The provided lifting/carrying and standing restrictions are highly consistent with an inability to perform any type of employment due to exertional limitations.

Overall, presented medical evidence was persuasive in finding that Claimant is unable to perform any exertional level of employment. This finding is made without even factoring Claimant's psychological impairments which would render Claimant's probability of sustaining employment even less likely. Based on Claimant's combined restrictions, Claimant is found incapable of performing any level of employment. Accordingly, Claimant is a disabled individual and it is found that DHS improperly denied Claimant's MA application.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1.

A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Id.


It has already been found that Claimant is disabled for purposes of MA benefits based on a finding that Claimant's combined impairments render him incapable of sustaining any type of employment. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly denied Claimant's application for SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for MA and SDA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA and SDA benefit application dated [REDACTED], including retroactive MA benefits from 2/2014;
- (2) evaluate Claimant's eligibility for benefits subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/3/2014**

Date Mailed: **12/3/2014**

CG / hw

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 48909-8139

cc:

