

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014 33828  
Issue Nos.: 2009, 4009  
Case No.: [REDACTED]  
Hearing Date: August 6, 2014  
DHS County: Wayne County DHS  
(57)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. A witness, [REDACTED], also appeared on behalf of the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

**ISSUE**

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P) and State Disability Assistance (SDA) benefit programs?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On January 27, 2014, the Claimant submitted an application for public assistance seeking MA-P and SDA benefits.
2. On March 7, 2014, the Medical Review Team ("MRT") found the Claimant not disabled.

3. The Department notified the Claimant/AHR of the MRT determination on March 17, 2014.
4. On March 26, 2014, the Department received the Claimant's written request for hearing.
5. On June 2, 2014, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
6. An Interim Order was issued on August 8, 2014. The new evidence was received by the undersigned and reviewed.
7. The Claimant alleges physical disabling impairments due to lower back pain, scoliosis, severe headaches, hypertension and surgery for a tumor on her back.
8. The Claimant has alleged mental disabling impairments anxiety and depression and bi-polar disorder diagnosis.
9. At the time of hearing, the Claimant was 55 years old with an [REDACTED] birth date. Claimant is 5'7" in height; and weighed 200 pounds.
10. The Claimant completed high school
11. The Claimant's past work was performing retail work in a gift shop at the airport, home health care of elderly and disabled individuals consisting of cooking and laundry and cleaning. In addition, nursing assistance for individuals with paralysis, assisting with medications, emptying catheters, as well as assisting with meals. The Claimant also worked as a chauffeur transporting medical patients to medical appointments and hospitals.
12. The Claimant's impairments have lasted or are expected to last 12 months duration or more.

### **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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed

impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a) (4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity and, therefore, is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

*Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a Claimant's age, education, or work experience, the impairment would not affect the Claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

The Claimant alleges physical disabling impairments due to lower back pain, scoliosis, severe headaches, hypertension and surgery for a tumor on her back.

The Claimant has alleged mental disabling impairments anxiety and depression and bipolar disorder diagnosis.

A summary of the medical evidence follows.

On September 30, 2014, the Claimant's treating Doctor at a sleep disorder center noted and diagnosed the Claimant with moderate obstructive sleep apnea, with an apnea – hypopnea index of 22.1/HR (indicating that she stops breathing 22.1 times per hour). She is presently in treatment with continuous positive airway pressure.

A medical examination report was completed on September 23, 2014 by Claimant's internal medicine Doctor. The diagnosis was lumbar pain, gluteal pain and posterior thigh pain. The medical examination noted bowel sounds were present and that

Claimant's back did have full range of motion. The Claimant was evaluated as stable and the following limitations were imposed, the Claimant could not lift or carry any weight, could stand or walk less than two hours in an eight-hour workday, and sit about six hours in an eight-hour workday. The Claimant had full use of her hands and arms, and could not operate foot or leg controls with either foot. The medical findings supporting the diagnosis and limitations were lumbar tenderness and gluteal tenderness.

An x-ray of the Claimant's lumbar spine was taken on May 17 2014. This x-ray was compared with an x-ray taken in September 2013. The impression by the radiologists was mild disc space narrowing lower lumbar spine, mild spondylosis, facet arthrosis and degenerative right sacroiliac joint. The examiner also noted mild sclerosis along the right sacroiliac joint, with mild degenerative adjacent lucencies which are degenerative.

A medical examination report was completed by the Claimant's surgeon who operated on the Claimant's lipoma on her back. The report is dated August 18, 2014 and indicates that the Claimant is improving and no limitations were imposed with regard to the removal of the growth.

On August 19, 2014, a Medical Examination Report was completed by Claimant's Doctor of internal medicine. The Doctor noted that the Claimant's condition was stable and limitations were imposed which included frequently lifting 10 pounds standing or walking less than two hours in an eight hour workday, and ability to use her hands and arms to perform repetitive actions. The Claimant was evaluated as incapable of using her right leg or foot to operate foot/leg controls. The findings used to support the limitations noted chronic hip pain and lower back pain. The Claimant did need assistance with housekeeping and getting in and out of the bathtub.

A treatment plan meeting was conducted on September 10, 2014, with the Claimant's treating mental health care provider. At that time, the report noted that the Claimant reported being easily distracted and has difficulty finishing tasks. Claimant self describes as being both defensive and offenses. Claimant was struggling with grief and loss due to the death of her brother a few days ago. The Claimant had complaints of Agoraphobia because of anxiety. She complained of panic attacks, frustration and angers easily. The Claimant complained of ongoing depression which causes her to frequently shut down. Substance use was denied. During the evaluation, the Claimant expressed a desire to work and feels she is not able to work due to her disabilities. As a result of the meeting, it was arranged for the Claimant to be treated in an outpatient therapeutic setting with visits from psychiatrist for medication reviews and case management services.

On October 28, 2013, the Claimant was seen for a Consultative Medical Exam which noted the following impression, the examinee has mental illness, is currently on medication and being followed by a mental health specialist. The examinee has a history of hypertension and is currently on medication. The examinee has chronic back pain and is currently taking medications for this problem. The Medical Source Statement stated that "based upon the history and exam, the examinee does need ongoing care and management for her chronic medical and mental health concerns. The examiner noted that there was mild tenderness to palpation in the lower lumbar area. She was able to get on and off the table slowly. Tandem walk heel walk and toe walk are done slowly. Straight leg raising was negative, x-rays of the Claimant's lumbar spine were taken noting no gross evidence of fracture seen. There are degenerative osteoarthritic changes of the lumbar spine, however, severely underpenetrated exam of the lateral projection." Therefore, the examiner suggested a complete follow-up study for further evaluation. The examiner also noted that the Claimant could sit, stand and climb stairs, but could only do so with pain.

As part of the consultative examination, an evaluation of the Claimant's ability to do work-related activities was also completed. The Claimant was found capable of occasionally lifting 11 to 20 pounds, and carrying up to 20 pounds occasionally up to one third of an eight-hour day. The Claimant was capable of sitting two hours, standing one hour, and walking one hour at one time without interruptions. The Claimant was capable of sitting six hours in an eight-hour day, standing up to five hours, and walking up to five hours. The use of a cane was not required. With the use of the cane, the Claimant was evaluated as capable of carrying small objects in her free hand. The Claimant had the capability of frequently 1/3 to 2/3 of the day use of both of her hands for reaching, handling, or fingering, feeling, as well as pushing and pulling. The Claimant was evaluated as frequently capable of operating foot controls with her right and left foot. The Claimant was only occasionally capable of climbing stairs and ramps. The Claimant could never climb ladders or scaffolds. The Claimant could occasionally be required to balance, stoop, kneel, crouch and crawl. The Claimant's hearing and vision was not deemed impaired. Environmental limitations were also reviewed and the Claimant was evaluated as never capable of exposure to unprotected heights and only occasionally capable of exposure to moving mechanical parts, operating a motor vehicle, humidity and wetness, dust, odors, fumes and pulmonary irritants, extreme cold, extreme heat and vibrations. The Claimant was capable of being in an office environment with moderate noise levels. The Doctor also certified that the limitations noted have lasted or will continue to last for 12 consecutive months. With respect to the Claimant's physical impairments, the Claimant was capable of performing her activities of daily living. The evaluation was completed October 20, 2013.

A Medical Examination Report was completed by the Claimant's treating physician since 2003 on December 1, 2013. At the time, the diagnosis was hypertension, Gerd

hyperlipidemia, osteoarthritis in the knees and lower back. The examiner noted that range of motion in the lumbar spine was affected. At the time of the exam, the Claimant was evaluated as stable and limitations were imposed which were expected to last more than 90 days. The Claimant was evaluated as capable of frequently lifting less than 10 pounds and occasionally 10 to 20 pounds. The Claimant was capable of standing or walking less than two hours in an eight-hour workday. The Claimant was evaluated as capable of sitting less than six hours in an eight-hour workday. The Claimant was evaluated as incapable of using either foot or leg for the operation of foot/leg controls. The Claimant had full use of her hands and arms. The medical findings supporting the limitations were noted as arthritis in both knees and chronic lower back pain recurrent. Throughout 2013, the Claimant was seen by her regular Doctor who noted abnormal musculoskeletal exam with lower back pain. The rest of the doctor's notes were not readable.

A psychiatric evaluation was performed by the Claimant's mental health care provider on September 10, 2013. The presenting complaint was anxiety, panic attacks, history of headaches and vomiting, which makes the Claimant forgetful and feel depressed with mood swings. The Claimant admitted to prior drug use including cannabis which she has not smoked for 11 years, and cocaine use 21 years ago. The Claimant also indicated the last time she used alcohol was 10 years ago and did not smoke. During the examination, the Doctor noted paranoid ideation with regard to thought processes and content, general appearance was constricted, behavior was evasive/avoidant, motor status was agitated/restless, speech was verbose, affect was constricted, insight was poor and judgment was poor, and the Claimant was oriented X3. At the time of the exam, the Claimant was diagnosed with bipolar disorder, most recent episode mixed severe without psychotic elements. Secondary diagnosis of post-traumatic stress disorder was also made. Cannabis, cocaine and alcohol dependence were all noted as in remission. At the time of the exam, the GAF score was 30. The Claimant was recommended for outpatient services and psychotropic drugs of medications.

Subsequently, on November 20, 2013, the Claimant's diagnosis was changed from bipolar disorder depressed with psychotic features, rule out schizoaffective disorder. No GAF score was provided with the change. This change was completed by the Claimant's treating Doctor. At the time of the note, the Claimant's affect was blunted, speech was stilted and the Claimant refused Abilify, stating it causes her to throw up. Claimant made paranoid references to not wanting to be experimented with, wanted to be placed back on Zyprexa and would learn to live with the dry mouth effects of taking the drug. The note indicated the Claimant appeared to be drug seeking for medications for panic, anxiety symptoms. The Claimant denied that she was seeking any kind of drug medications. The Claimant was noted as projecting hostile, irritable and was upset that she was asked about her pain in her past visit and not given pain medicine. The Claimant also noted that she had gained 8 pounds while taking Zyprexa. The Claimant



was standing for much of the visit with affect blunted aloof and paranoid. The Claimant wanted therapy but resisted group therapy as she does not like people. Subsequently, the Claimant agreed to discontinue Zyprexa to avoid its side effects and consented to taking Abilify.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Claimant has presented objective medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. Accordingly, the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In addition, the Claimant's impairments have been examined in light of the listings and after a review of the evidence the Claimant's impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416.926. Listing 1.04 Disorders of the Spine was examined in light of the Claimant's lower back pain however the medical evidence did not meet the severity requirements as there was no evidence of herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With: A. Evidence of nerve root compression.

Listing 12.04 Affective Disorders was also examined in light of the Claimant's diagnosis of major depressive disorder and bipolar disorder with complaints of anxiety. After review of the medical evidence, and due to the fact that no Mental Residual Functional Capacity Assessment (DHS 49 D and E) was provided, the requisite findings cannot be made with respect to this listing. The Claimant was requested to obtain such testing from her psychiatrist and apparently was unable to obtain a completed DHS 49 D and E as ordered. However, the listing requirements were not met or supported by the available medical evidence. Therefore, vocational factors will be considered to determine Claimant's residual functional capacity to do relevant work.

Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions. Claimant has credibly testified to the following limitations and abilities. The Claimant can walk approximately less than one block and can stand only 15 minutes. The Claimant can sit for an hour, but has numbness on his right side. The Claimant needs assistance with showering, with help getting out of the tub and wears slip-on shoes as she cannot tie her shoes or touch her toes. The Claimant also has difficulty going up and downstairs. The Claimant does not do laundry or other household chores and does not drive due to her concern about her sleep apnea. The Claimant also testified that she gets anxiety being around too many people. For the same reason, she

testified she is too anxious to use public transportation. The Claimant also credibly testified to daily crying spells and weekly anxiety attacks with mood swings where she becomes very agitated.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, Claimant's past employment was performing retail work in a gift shop at the airport, home health care of elderly and disabled individuals consisting of cooking and laundry and cleaning. The Claimant also provided nursing assistance for individuals with paralysis, assisting with medications, emptying catheters, as well as assisting with meals. The Claimant also worked as a chauffeur, transporting medical patients to medical appointments and hospitals.

The Claimant's work was unskilled and, therefore, transferability is not an issue. This prior work requires abilities and capabilities that based on the limitations presented, cannot be any longer achieved by the Claimant, particularly with regard to standing and lifting requirements in caring for elderly and disabled patients. The Claimant also does have documented sleep apnea with 22 incidents per hour and thus her testimony regarding her capability to drive is credible and, therefore, can no longer perform work as a chauffeur. Therefore, it is determined that the Claimant is no longer capable of past relevant work. Thus a Step 5 analysis is required 20 CFR 416.920(e).

In the final step of the analysis, the trier of fact must determine if the Claimant's impairment(s) prevent the Claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the Claimant's:

1. residual functional capacity defined simply as "what can you still do despite your limitations?" 20 CFR 416.945;
2. age, education, and work experience, 20 CFR 416.963-965; and
3. the kinds of work which exist in significant numbers in the national economy which the Claimant could perform despite her limitations. 20 CFR 416.966.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have

the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

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. 20 CFR 416.967(a).

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. 20 CFR 416.967(b).

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, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

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, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, the Claimant was 55 years old with a high school education and thus is considered a person of advanced age for MA-P purposes. The Claimant has a high school education and has been restricted with limitations on standing and walking less than 2 hours in an 8-hour workday and sitting less than 6 hours in an 8-hour workday. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the

residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984).

While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

After a review of the entire record, including the Claimant's credible testimony and medical evidence presented, and the objective medical evidence, particularly the assessments of Claimant's longstanding treating doctor and long term care doctor who both imposed sedentary or more restricted limitations, it is determined that the total impact caused by the physical impairment suffered by the Claimant and her mental impairments in combination must be considered. Based on a full review of the medical evidence and giving deference to the opinions and evaluations of the Claimant's treating doctors, it is determined that the medical evidence supports a finding that the Claimant's is capable of sedentary work, as she cannot meet the required standing or sitting or lifting requirements for light work. In doing so, it is found that the combination of the Claimant's physical and mental impairments in totality support a finding that she is capable of sedentary work.

In light of the foregoing, it is found that the Claimant maintains the residual functional capacity for work activities on a regular and continuing basis to meet the physical and mental demands required to perform sedentary work as defined in 20 CFR 416.967(a). Based upon the foregoing review of the entire record using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.04, it is found that the Claimant is disabled for purposes of the MA-P program at Step 5.

### **DECISION AND ORDER**

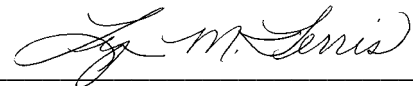
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of January 2014.

Accordingly, the Department's decision is hereby REVERSED

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS

HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to initiate a review of the application dated January 27, 2014 and retro application if any, if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall issue a supplement to the Claimant for any SDA benefits the Claimant is otherwise entitled to receive in accordance with Department policy.
3. A review of this case shall be set for December 2015.



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

Date Signed: December 18, 2014

Date Mailed: December 19, 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.

2014-33828/LMF

The Department, AHR or the Claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

LMF/tm

cc:

