

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

IN THE MATTER OF:

██████████
██████████

Reg. No.: 14-001826
Issue No.: 2009; 4009
Case No.: ██████████
Hearing Date: November 12, 2014
County: Wayne (41)

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 November 12, 2014, from Detroit, Michigan. Participants included the above-named Claimant. ██████████ Claimant's daughter, testified and appeared as Claimant's authorized hearing representative (AHR). ██████████ Claimant's friend, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included ██████████, Medical Contact Worker.

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 ██████████, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On ██████████ the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 9-10), in part, by application of Medical-Vocational Rule 202.20.

4. On [REDACTED], DHS denied Claimant's application for MA and SDA benefits and mailed a Health Care Coverage Determination Notice (Exhibits 6-8) informing Claimant of the denial.
5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA and SDA benefits (see Exhibit 4).
6. On [REDACTED], an administrative hearing was held.
7. During the hearing, Claimant and DHS waived the right to receive a timely hearing decision.
8. During the hearing, the record was extended 30 days to allow Claimant to submit psychiatric treatment records and internist statements concerning Claimant's knee and lumbar; an Interim Order Extending the Record was subsequently mailed to both parties.
9. On [REDACTED], Claimant submitted additional documents (Exhibits A1-A110).
10. As of the date of SDA application, Claimant was a 49 year old female with a height of 5'11" and weight of 373 pounds.
11. Claimant has no known relevant history of alcohol or illegal substance abuse.
12. Claimant's highest education year completed was the 12th grade.
13. As of the date of the administrative hearing, Claimant was an ongoing Healthy Michigan Plan recipient since 4/2014.
14. Claimant alleged disability based on impairments and issues including depression, back pain, knee pain, and heavy menstruation.

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).

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 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 medical documentation.

Various physician encounter notes (Exhibits A38-A50) from 2013 were presented. Various treatment for back pain, stressors (e.g. daughter stabbed Claimant's mate), and headaches were noted. Various assessments included the following: morbid obesity, osteoarthritis of knees, tension headaches, deep venous leg insufficiency without heart failure, sciatica, essential HTN, and tobacco abuse.

A trans-vaginal ultrasound report (Exhibit 34) dated [REDACTED] was presented. An impression of fibroids up to 5cm was noted. The impression was echoed by an impression following a pelvic ultrasound (see Exhibit 35).

An x-ray report of Claimant's right knee (Exhibit 33) dated [REDACTED] was presented. Narrowing of the patellofemoral tibial compartment with osteophytosis was noted. An impression of a stable radiographic appearance was noted.

An x-ray report of Claimant's left knee (Exhibit 32) dated [REDACTED] was presented. An impression of a stable radiographic appearance was noted.

An x-ray report of Claimant's lumbar spine (Exhibit 30) dated [REDACTED] was presented. An impression of a normal examination was noted.

A Medical Examination Report (Exhibits 27-29) dated [REDACTED] was presented. The form was completed by a gynecologist with an approximate 4 month history of treating Claimant. Physical examination findings noted that Claimant's uterus was difficult to assess due to body habitus.

An x-ray report of Claimant's lumbar spine (Exhibit 31) dated [REDACTED] was presented. An impression of mild facet degenerative changes at L5-S1 was noted.

A Medical Examination Report (Exhibits 24-26) was presented. The form was undated but was created by DHS on [REDACTED] and was date stamped as submitted to DHS on [REDACTED].

██████████; thus, it can be presumed the form was completed on some date in-between the creation and submission date. Claimant's physician stated that Claimant was first examined on ██████████ but did not state if Claimant was subsequently examined. Claimant's physician listed diagnoses of HTN, morbid obesity, tobacco dependence, rhinitis, sciatica, osteoarthritis of knee, deep venous insufficiency, muscle spasm, tension headache, and dyspnea on exertion. An impression was given that Claimant's condition was deteriorating. Straight-leg-raising testing was noted as negative.

Various physician office visit documents (Exhibits A30-A38) were presented. The documents ranged in date from ██████████ through ██████████. Assessments of female stress incontinence, morbid obesity, sciatica, insomnia, nicotine dependence, osteoarthritis, muscle spasm, restless leg syndrome and HTN were consistently noted.

Intake assessment documents dated ██████████ (Exhibits A87-A107) from a newly treating LLP were presented. It was noted that Claimant reported unhappiness because each of her 6 children was involved with drugs, violence, or other illegal activity. It was noted that each of Claimant's grandchildren were involved with Child Protective Services. Claimant reported difficulty with sleeping and mood swings.

Physician office visit documents (Exhibits A29-A30) dated ██████████ were presented. It was noted that an MRI of Claimant's back indicated a small lesion on Claimant's pelvis; it was noted that Claimant denied associated pain. Claimant reported bladder leaking when stressed.

A Psychiatric Evaluation (Exhibits A80-A84) dated ██████████. It was noted that Claimant had significant worries about her children. It was noted that Claimant has no history of psychiatric treatment or hospitalization. Notable observations of Claimant included unremarkable presentation, normal mental activity, depressed affect, good judgment, and unremarkable thought processes. A diagnosis of major depressive disorder was noted. A GAF of 48 was noted.

A Progress Note (Exhibits A78-A79) dated ██████████ from a treating social worker was presented. It was noted that Claimant was depressed about family problems.

Treatment plan meeting documents dated ██████████ (Exhibits A68-A77) from a treating social worker were presented. It was noted that Claimant sought assistance with an allegedly inaccurate criminal record, seeking disability benefits, and finding stable housing.

Physician office visit documents (Exhibits A27-A28) dated ██████████ was presented. It was noted that Claimant gained 15 pounds in the last month. A complaint of vaginal discharge was noted. Assessments of restless leg syndrome, insomnia, sciatica, osteoarthritis, nicotine dependence, morbid obesity, cutaneous candidiasis, vaginal discharge, and HTN were noted.

A Psychiatric Progress Note dated [REDACTED] (Exhibits A63-A65) from a treating psychiatrist was presented. A diagnosis for depression and GAF of 48 were again noted.

A physician office visit document (Exhibit A25) dated [REDACTED] was presented. It was noted that Claimant complained of HTN and needing medication. Refills of amlodipine, Flexeril, Losartan, trazadone, omeprazole, Zyntec, Naproxyn, and Requip.

A Progress Note (Exhibits A61-A62) dated [REDACTED] from a treating social worker was presented. It was noted that Claimant was worried about getting kicked out of her son's house.

A Progress Note (Exhibits A59-A60) dated [REDACTED] from a treating social worker was presented. It was noted that Claimant "has been so stressed out", in part, due to homelessness and lack of income. It was noted that Claimant had difficulty dealing with her son.

A Progress Note (Exhibits A54-A55) dated [REDACTED] from a treating social worker was presented. It was noted that Claimant was tearful because her son was kicking her out of a home and that Claimant had nowhere to go.

A Psychiatric Progress Note dated [REDACTED] (Exhibits A51-A53) from a treating psychiatrist was presented. It was noted that Claimant reported headaches from Prozac but reported "doing ok" otherwise.

A physician office visit document (Exhibit A23) dated [REDACTED] was presented. It was noted that Claimant reported difficulty with breathing. The following plans were noted: blood glucose and A1C check, ECG, echocardiogram, chest x-ray, and specialist consultation. No documents concerning follow-up were presented.

A Psychiatric Progress Note dated [REDACTED] (Exhibits A51-A53) from a treating psychiatrist was presented. Medications of Amitriptyline, Tramadol, Trazadone, Naproxen, Cyclobenzaprine, Cetirizine, and Omeprazole were noted. It was noted that Claimant reported that "sometimes I don't sleep good {sic}". An active diagnosis of major depressive disorder was noted.

Claimant testified that she sometimes uses a cane. Claimant estimated that she is able to walk only one block before losing her breath. Claimant also testified that she can only stand for less than 5 minutes before back pain prevents further standing. Spirometry testing was not verified though complaints of dyspnea were documented. Treatment for knee and back pain verified some degree of spinal and knee abnormality that would cause some degree of ambulation and standing restrictions that have lasted at least 12 months.

Claimant testified that she is disabled due to excessive menstrual bleeding. Claimant testified that she has a period every 3 weeks and experiences excessive bleeding for 7 day periods. Claimant testified that she routinely bleeds through her pants.

Claimant's testimony was dubious. Medical history consistent with Claimant's testimony would include hospital treatments, anemia, and/or blood transfusions; no evidence of such history was verified.

Menorrhagia is a common problem for women of Claimant's age. Radiology also verified fibroids. The evidence was sufficient to verify some degree of inconvenience due to excessive vaginal bleeding, but not nearly to the extent testified to by Claimant.

Claimant presented evidence of psychological treatment for depression. Specific restrictions related to depression were not obvious.

A recurring GAF of 48 was verified. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's symptoms appear to be relatively non-serious. Claimant has no history of psychiatric hospitalization, suicide ideation, or difficulty with social interaction. There was no evidence of impaired judgment or mental activity. Claimant's GAF appears to be exaggeratingly low, though some degree of concentration restrictions can be inferred based on statements made in Claimant's psychiatric records.

Claimant's psychological/psychiatric history tended to establish some degree of concentration difficulties due to guilt and/or distraction from family dysfunction. There was insufficient evidence of social or daily activity problems.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. Accordingly, it is found that Claimant established having a severe impairment and 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 knee pain. The listing was rejected due to an absence of radiology impressions justifying that Claimant is unable to ambulate effectively.

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

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

A listing for chronic skin infections (Listing 8.04) was considered based on a diagnosis for cutaneous candidiasis. The listing was rejected due to a failure to establish extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing prescribed treatment.

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 inflammatory arthritis (Listing 14.09) was considered based on diagnoses of arthritis. The presented medical records were insufficient to establish that Claimant has an inability to ambulate effectively, perform fine and gross movements, or suffers inflammation or deformities with a diagnosis of ankylosing spondylitis or other spondyloarthropathies, or suffers repeated manifestations of inflammatory arthritis.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant testified that she worked from approximately 2005-2010 as a resident care aide. Claimant testified that her duties involved dressing, cleaning, and cooking for disabled individuals. Claimant also testified that she performed similar employment for 6-7 months in 2014.

Claimant testified that she performed employment from 2003-2005 as a laundry aide. Claimant also testified that she also worked for 1.5 years as an axle inspector.

Claimant's testimony implied that her past relevant jobs from the last 15 years involved significant periods of standing and/or ambulation. Claimant testified that she can no longer perform the necessary standing or ambulation required of past employment. For purposes of this decision, Claimant's testimony will be accepted as accurate. 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).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's 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 dated [REDACTED], Claimant's gynecologist opined that Claimant was restricted as follows over an eight-hour workday, less than 2 hours of

standing and/or walking, and less than 6 hours of sitting. Claimant's gynecologist opined that Claimant was restricted to occasional lifting/carrying of 20 pounds, never 50 pounds or more.

Claimant's gynecologist listed diagnoses included sciatica, insomnia, rhinitis, anxiety, morbid obesity, HTN, back pain, and osteoarthritis. Presumably, Claimant's gynecologist did not treat Claimant for any of the listed diagnoses. This consideration lessens the credibility of stated restrictions.

Claimant's gynecologist did not state any basis for imposing restrictions. Presumably, Claimant received treatment from her gynecologist for fibroids which were verified by radiology. Overall, the evidence was insufficient to justify the restrictions imposed by Claimant's gynecologist.

Claimant testimony was insistent that menstrual bleeding was disabling. Claimant testimony implied that she is left for 3-4 days per month when she is unable to work because of significant bleeding. Claimant testimony also insisted that menstrual protection provided inadequate security. It is plausible that fibroids and a diagnosis for menorrhagia restrict Claimant's lifting/carrying ability. The evidence was insufficient to infer that menstrual bleeding significantly inhibits Claimant's ability to perform sedentary employment.

In a Medical Examination Report, Claimant's doctor opined that Claimant was restricted as follows over an eight-hour workday, less than 2 hours of standing and/or walking, and less than 6 hours of sitting. Claimant's physician opined that Claimant was restricted to occasional lifting/carrying of 20 pounds, never 50 pounds or more. Claimant's physician cited marked patello-femoral narrowing and bilateral knee crepitus as reasons to support restrictions.

Presented radiology of Claimant's left knee showed no abnormalities. It is possible that Claimant could have left knee crepitus despite unremarkable radiological findings, however, the evidence is consistent with finding that Claimant can perform sedentary employment.

As cited by Claimant's physician, right knee radiology indeed noted patello-femoral narrowing. The radiological report did not note *marked* narrowing. If Claimant had marked knee joint space narrowing, it is expected to be specifically noted on a radiological report. The diagnosis of marked narrowing in Claimant's right knee from Claimant's physician was not persuasive. Joint space narrowing, without further explanation, is not sufficient to justify a finding that Claimant is unable to perform sedentary employment.

Looking at Claimant's back pain, mild facet degenerative changes at L5-S1 was verified. Even factoring Claimant's obesity, presented radiology is not indicative of restrictions that would limit Claimant's ability to perform the standing, lifting, or sitting required of

sedentary employment. A negative straight-leg raising test is further evidence supportive of finding that Claimant's back pain does not prevent the performance of sedentary employment.

Treatment for urinary incontinence, dyspnea, headaches, and skin infections was verified. Treatment records and testimony were insufficient to justify any restrictions related to these conditions.

Claimant verified treatment for depression. As noted in step two, specific restrictions were not obvious. Claimant appears to have no impairments concerning judgment or social ability. It was found that Claimant has concentration difficulties. Such difficulties could restrict Claimant to unskilled and/or simple employment.

The most compelling evidence of work difficulties was treatment for urinary incontinence related to stress. There was no evidence that the problem limited Claimant's abilities. For example, Claimant's counseling records documented Claimant's attempts to pursue disability and find stable housing. Incidents of incontinence were not detailed.

It is also notable that Claimant's most documented psychological complaint was depression and stress related to unstable housing and lack of income. Theoretically, Claimant's depression symptoms would decrease with the performance of employment.

Based on presented evidence, Claimant is capable of performing non-complex sedentary employment. Examples of employment available to Claimant would be assembler, typist, and clerk. The availability of such employment was not verified, however, it is presumed that such employment is sufficiently available.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school), employment history (no transferable skills), Medical-Vocational Rule 201.21 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.

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 not disabled for purposes of MA benefits based on application of Medical-Vocational Rule 201.21. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is not a disabled individual for purposes of SDA eligibility and that DHS properly denied Claimant's application for SDA benefits.

It should be noted that Claimant turned 50 years old after DHS denied her MA and SDA application. Claimant's change in age could result in application of a Medical-Vocational Rule that supports a finding of disability. Claimant is encouraged to reapply for MA and/or SDA if benefits are still needed.

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 and SDA benefit application dated [REDACTED] 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: **12/19/2014**

Date Mailed: **12/19/2014**

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:

