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

IN THE MATTER OF:

Reg. No.:	14-001837
Issue No.:	2009
Case No.:	
Hearing Date:	August 20, 2014
County:	Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on August 20, 2014, from Detroit, Michigan. Participants included the above-named Claimant. testified and appeared as Claimant's authorized hearing representative (AHR). 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) 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 MA benefits, including retroactive MA benefits from 9/2013.

2. Claimant's only basis for MA benefits was as a disabled individual.

3. On the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).

4. On DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On [redacted], Claimant's AHR requested a hearing disputing the denial of MA benefits.

6. On [redacted] SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.14.

7. As of the date of the administrative hearing, Claimant was a 52 year old female with a height of 5'3 ½ '' and weight of 209 pounds.

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.

10. Claimant alleged disability based on impairments and issues including depression, foot nerve damage, high blood pressure, lumbago, fibromyalgia, COPD.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

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 CRF 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. "Current" work activity is interpreted to include all time since the date of application. The 2013 monthly income limit considered SGA for non-blind individuals is $1,040. The 2014 monthly income limit considered SGA for non-blind individuals is $1,070.

Claimant testified that she currently works in food service for a public school system. Claimant testified that she works 3.5 hours per day (17.5 per week) for $9.00 per hour. Claimant's income amounts to $157.50 per week, which projects to significantly less than the presumptive SGA income threshold. Claimant's testimony was credible and unrebutted. It is found that Claimant is not performing SGA and has not performed SGA since the date of MA application. Accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen,* 880 F2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity

requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

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

An undated CT report of Claimant's cervical spine (Exhibit B4) was presented. An impression of mild multilevel degenerative changes without significant stenosis was noted.

Physician progress notes (Exhibit 54; 68-69) dated [redacted] were presented. It was noted that Claimant presented for follow-up from a recent mini-stroke. It was noted that Claimant took Vicodin for lumbar pain. It was noted that Claimant took Neurontin. A primary assessment of HTN was noted.

Hospital documents (Exhibits 30-32; 35-36; 47) from an encounter dated [redacted] presented. A complaint of left-side tingling and numbness was noted. A hospital course of action was not noted. Medications noted as continued included the following: Vicodin, Xanax, Paxil, Lopressor, and Lisinopril. Neurontin and Welburtin were noted as newly prescribed meds.

Hospital documents (Exhibits 27-29) from an encounter dated [redacted] were presented. A diagnosis of toothache was noted.

Physician progress notes (Exhibits 52-53; 59-60; 70-71; A3-A5) dated [redacted] were presented. It was noted that Claimant complained of bilateral arm pain, particularly when reaching overhead. It was noted that Claimant was a smoker. Nerve damage was noted as a possibility; follow-up was recommended, though it was noted that Claimant did not have health insurance

Hospital documents (Exhibit 26; 61-63; 72-73; A17-A21) from an encounter dated 3/13/13 were presented. It was noted that Claimant presented with complaints of right arm pain, ongoing for 3 weeks. A CT report of Claimant's head (Exhibits B3) showed no evidence of an acute intracranial process. Diagnoses of cervical radiculopathy and urgent HTN were noted.

Physician progress notes (Exhibits 55-58; 65-67; A6-A8) dated [redacted] were presented. It was noted that Claimant complained of elevated blood pressure. Blood pressure medications were noted as continued.

A mental status examination report (Exhibits 78-83) dated [redacted] was presented. The form was completed by a consultative licensed psychologist. It was noted that Claimant

reported physical problems that would prevent her from performing employment. It was noted that Claimant reported independent but slow performance of ADLs; Claimant also reported good social relationships. Noted observations of Claimant by the examiner included the following: adequate hygiene, good grooming, pleasant, friendly, talkative, verbally responsive, good eye contact, intact insight and judgment, and cooperative. Diagnoses of adjustment disorder with depressed mood, dysthymic disorder, and anxiety disorder. A fair prognosis was noted. The examiner opined that Claimant had mild impairment with relating to others, understanding and remembering instructions, and maintaining attention. A moderate impairment to withstanding stress was noted. It was opined that Claimant could likely handle more complex tasks though she will likely have moderate difficulties in multiple step tasks.

Physician office visit documents (Exhibits 49-51; A9-13) dated [redacted] were presented. It was noted that Claimant complained of chronic pain. It was noted that Claimant was a tobacco smoker. A medication change from Neurontin to amitriptyline was noted. A known history of fibromyalgia was noted.

Hospital documents (Exhibits 12-25; 33-34; 37-46; 48) from an encounter dated [redacted] were presented. It was noted that Claimant presented with complaints of vomiting, poor appetite, fever, and body aches. A past medical history of fibromyalgia, HTN, asthma, GERD, and depression were noted. It was noted that a follow-up chest x-ray was abnormal but that Claimant felt better after receiving antibiotic medication; follow-up was recommended. A diagnosis of COPD was noted. It was noted that Claimant's appetite improved and that Claimant was discharged. A discharge diagnosis of pneumonia was noted.

Physician progress notes (Exhibits A14-A16) dated [redacted] were presented. It was noted that Claimant presented for a 3 month check-up. It was noted that Claimant was compliant with blood pressure medication and that it was working well. It was noted that Claimant had a known history of fibromyalgia. A complaint of chronic pain and fatigue was noted. No physical examination abnormalities were noted. Medication changes were noted. Instructions to take blood pressure daily and smoking cessation were noted.

A Medical Examination Report (Exhibits A1-A2) dated [redacted] was presented. The form was completed by an internal medicine physician with an approximate 5 year history of treating Claimant. Claimant's physician listed diagnoses of lumbago, COPD, hyperlipidemia, HTN, and degenerative joint disease. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs. No abnormal physical examination findings were noted.

Hospital documents (Exhibits C31-C43) from an admission dated [redacted] were presented. It was noted that Claimant presented with complaints of right thigh pain. A diagnosis of an abscess was noted. It was noted that Claimant received various antibiotic medication and was discharged on [redacted].

Physician office visit documents (Exhibits C12-C15) dated [redacted] were presented. It was noted that Claimant presented with complaints of fatigue and anhedonia. It was noted that Claimant smoked 21-30 cigarettes per day.

Physician office visit documents (Exhibits C7-C10) dated [redacted] were presented. It was noted that Claimant presented for head pressure, worse with high blood pressure. Complaints of depression, an unspecified tremor, increased pain from fibromyalgia, and restless sleep were also noted. Various medications were noted as prescribed.

Physician office visit documents (Exhibits E1-E3) dated [redacted] were presented. It was noted that Claimant presented for HTN treatment. Claimant's blood pressure was noted to be 140-70. A plan to start Norvasc was noted.

Pulmonary physician documents (Exhibits C26-C28; F1-F4) dated [redacted] were presented. It was noted that Claimant complained of dyspnea, worse with exertion. It was noted that Claimant was a long-time smoker. It was noted that respiratory testing was unremarkable and did not correlate with Claimant's symptoms. The physician suspected that Claimant was very deconditioned given Claimant's weight gain, lack of exercise, and history of fibromyalgia.

Physician office visit documents (Exhibits C3-C6) dated [redacted] were presented. It was noted that Claimant presented for treatment of chronic pain and right thigh tingling. A refill of Norco was noted.

Neurology care center physician documents (Exhibits B1-B2; C29-C30) dated [redacted] were presented. It was noted that Claimant was diagnosed with fibromyalgia one year earlier, but never treated. It was noted that Claimant complained of memory loss, left-sided dysfunction, chronic anxiety, chronic pain, hot flashes, and headaches. All physical examination findings were normal. A list of 17 Claimant medications was noted. Assessments of fibromyalgia and right-sided meralgia paresthetica were noted. A plan of blood testing was noted.

Physician office visit documents (Exhibits D1-D2) dated [redacted] were presented. It was noted that Claimant presented for right foot neuroma and a bunion. A radiology report of Claimant's chest (Exhibit C19) noted an impression of a normal chest appearance. An impression of a calcaneal spur was noted following x-rays of Claimant's right foot. Assessments of a bunion and painful neuroma were also noted. A plan of right foot MRI was noted.

A MRI report of Claimant's right foot (Exhibits D5-D6) dated [redacted] was presented. Impressions of arthritic changes, hallux rigidus changes, cystic lesion, and cyst were noted.

Physician office visit documents (Exhibits E4-E6) dated [redacted] were presented. It was noted that Claimant presented for HTN treatment. Claimant's blood pressure was noted to be 130/80 A plan to continue Norvasc and Lisinopril was noted.

Physician office visit documents (Exhibits C1-C2) dated [redacted] were presented. It was noted that Claimant complained of neuropathic pain in her thigh (presumably Claimant's right thigh, based on previous treatment). A plan to increase Neurontin was noted. A diagnosis of Morton's neuroma in Claimant's feet was also noted.

Claimant alleged disability, in part, based on a diagnosis of COPD. On [redacted], Claimant underwent Spirometry testing (see Exhibit F4). Claimant's COPD was described as "very mild". It was further noted that Claimant would likely not require pulmonary treatment if she quit smoking. Claimant failed to establish a severe impairment based on COPD.

Claimant alleged disability in part, based on depression. Claimant presented no evidence of counseling. A consultative examiner noted that Claimant had impairments. The examiner also noted that Claimant's GAF was 80. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 71-80 is indicative of when symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); there is no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork). Claimant's GAF is indicative of not having a severe psychological impairment.

Claimant provided 7/2014 dated documents verifying treatment for an abscess. The same month, Claimant's physician noted that the abscess had resolved (see Exhibit C12). Claimant failed to establish any impairment related to an abscess.

Medical records adequately verified ongoing treatment for HTN, neuropathy, fibromyalgia, and foot pain. Treatment records regularly noted Claimant's complaint of pain. Based on these diagnoses and Claimant's medical history, a degree of lifting/carrying and ambulation restrictions can be inferred. It is found that Claimant established severe impairments since at least 12/2013; accordingly, the analysis may proceed to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of foot pain. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's neck 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 failure to verify that Claimant Spirometry test results meet listing levels.

A listing for sleep apnea (Listing 3.10) was considered based on medical records. The listing was rejected due to a failure to meet the requirements of Listings 3.09 or 12.02.

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.

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

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 her employment from the past 15 years includes working in food service for a public school, chore services, casino dealer, and drug store cashier. Claimant testified that her past jobs required periods of standing, which she can no longer perform.

Claimant's cashier and dealer employment appear to be what SSA describes as light employment (see below). Claimant's ability to perform light employment will be evaluated below. For purposes of this decision, it will be 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).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's 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.

On [redacted] Claimant's primary care physician 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 not restricted from performing any listed repetitive actions. Claimant was restricted to occasional lifting of less than 10 pounds, never 10 pounds or more. The restrictions were consistent with an inability to perform any type of employment.

Not all of Claimant's restrictions documented in 7/2014 were compelling. Based on Claimant's medical history, there is no obvious diagnosis that would restrict Claimant's ability to sit. Claimant testified that lumbar pain limits her lifting/carrying. It is possible that Claimant's physician restricted Claimant's sitting due to lumbar pain, however, treatment for lumbar pain was not verified.

On [redacted], Claimant's physician noted Claimant had "severe neuropathy" (and depression). The described restriction is consistent with an inability to perform light

employment. A “severe” neuropathy diagnosis is ideally verified by neurological testing; neurological testing was not provided.

Claimant’s physician also restricted Claimant to working 20 hours per week because Claimant was unable to stand “longer than a few hours a day”. This consideration was supportive in finding that Claimant has standing restrictions which would prevent the performance of light employment.

Two different physicians opined that Claimant was restricted from performing the standing required of light employment. The restrictions are reasonable given Claimant’s history of two strokes and diagnoses of severe neuropathy, right foot neuroma, HTN, and fibromyalgia. Based on presented evidence, it is found that Claimant is restricted to performing sedentary employment.

Based on Claimant’s exertional work level (sedentary), age (approaching advanced age), education (high school with no direct entry into skilled employment), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 201.14 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found Claimant to be not disabled for purposes of MA benefits.

DECISION AND ORDER

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

(1) reinstate Claimant’s MA benefit application dated [redacted], including retroactive MA benefits from 9/2013
(2) evaluate Claimant’s eligibility for MA 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: **12/4/2014**

Date Mailed: **12/4/2014**

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 48909-07322

cc: