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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-013845
Issue No.: 2009
Case No.: [redacted]
Hearing Date: June 10, 2015
County: Oakland-District 2

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on June 10, 2015, from Madison Heights, Michigan. Participants on behalf of Claimant included Claimant and [redacted], appeals specialist with [redacted]; Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Health and Human Services (Department) included [redacted], Eligibility Specialist.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional records. The record closed on July 8, 2015, and the matter is now before the undersigned for a final determination based on the evidence presented.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA) benefit program?

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 May 19, 2014, Claimant submitted an application for public assistance seeking MA-P benefits, with request for retroactive coverage to March 2014.

2. On June 18, 2014, the Medical Review Team (MRT) found Claimant not disabled (Exhibit A, pp. 9-10, 62-63).

3. On July 18, 2014, the Department sent Claimant a Benefit Notice denying the application based on MRT's finding of no disability for March 1, 2014 ongoing but

advising him that he continued to remain eligible for MA under the Healthy Michigan Plan for August 1, 2014 ongoing (Exhibit A, pp. 9-10).

4. On October 7, 2014, the Department received the AHR's timely written request for hearing (Exhibit A, pp. 6-8).

5. Claimant alleged physical disabling impairment due to diabetes, chest pain, myocarditis, and hypertension.

6. Claimant alleged mental disabling impairments due to depression.

7. At the time of hearing, Claimant was [redacted] old with a [redacted], birth date; he was [redacted] in height and weighed [redacted] pounds.

8. Claimant is a high school graduate with some college classes.

9. Claimant has an employment history of work as deli worker, packing employee for a temporary agency, and office employee for a temporary agency.

10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and 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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

MA-P benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2014), pp. 1-4. Disability for MA-P purposes is 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). To meet this standard, a client must satisfy the requirements for

eligibility for Supplemental Security Income (SSI) receipt under Title XVI of the Social Security Act. 20 CFR 416.901.

To determine whether an individual is disabled for SSI purposes, the trier-of-fact must apply a five-step sequential evaluation process and consider the following:

(1) whether the individual is engaged in SGA;
(2) whether the individual's impairment is severe;
(3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404;
(4) whether the individual has the residual functional capacity to perform past relevant work; and
(5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work.

20 CFR 416.920(a)(1) and (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).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. 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, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant has not engaged in SGA activity during the period for which assistance might be available (Exhibit A, pp. 71-73). Therefore, Claimant is not ineligible under Step 1 and the analysis continues to Step 2.

Step Two

Under Step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for MA-P means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 12 months. 20 CFR 416.922.

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 416.920(a)(4)(ii); 20 CFR 416.920(c). 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); see also *Salmi v Sec of Health and Human Services,* 774 F2d 685, 692 (CA 6, 1985). Basic work activities means the abilities and aptitudes necessary to do most jobs, including (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b).

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the *de minimus* standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen,* 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services,* 773 F2d 85, 90 n.1 (CA 6, 1985). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.*; SSR 96-3p.

In the present case, Claimant alleges physical disabling impairment due to diabetes, chest pain, myocarditis, and hypertension and mental disabling impairment due to

depression. The medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

The medical record showed that Claimant was voluntarily admitted at a psychiatric facility from November 25, 2012, to November 28, 2012. The discharge for the November 2012 admission indicated that Claimant had suicidal and homicidal ideations and was unable to control his anger. His discharge diagnosis was major depression, recurrent, moderate, with a GAF score of 20 at admission, 45 at discharge, with 40 being the highest score for the last year, with a prognosis of fair to good (Exhibit A, pp. 74-142).

On November 25, 2013, Claimant went to the hospital complaining of nausea, vomiting and abdominal pain. He was treated for gastritis (Exhibit A, pp. 143-156).

Claimant was hospitalized from March 14, 2014, to March 16, 2014, after he intentionally ingested 18 tablets of 5 mg Lisinopril and 5 tablets of 10-325 mg Norco in response to chest pain and indicated he was feeling depressed and was trying to kill himself. Claimant was diagnosed with depressive disorder, severe and assigned a GAF score of 25. His diagnoses included suicidal overdose, atypical chest pain, and uncontrolled diabetes mellitus, type 1. While he indicated he felt hopeless and helpless, Claimant denied current suicidal ideation during the hospitalization and refused further psychiatric treatment and requested to be discharged. The notes indicated no chronic artery disease, history of myocarditis with healing of heart and good ejection fraction of 55%, recent chest pains not cardiac in nature. Claimant was advised that he had a "decent heart and [he could] exercise." Because of his lack of coping skills and insight, Claimant was committed and transferred to an inpatient psychiatric facility since he refused assistance from psychiatric services in the hospital (Exhibit A, pp. 11-61).

Claimant was hospitalized from August 17, 2014, to August 19, 2014, due to upper respiratory infection and frequent episodes of hypoglycemia with blood sugars in the 30s. He was diagnosed with poorly controlled diabetes. The hospital records note that Claimant carried a diagnosis of chronic heart failure but his record showed no evidence of systolic or diastolic dysfunction or valvular abnormalities (Exhibit 1, pp. 14-16).

On September 13, 2014, Claimant went to the emergency department complaining of chest pains (Exhibit 1, pp. 17-22).

A January 6, 2015 psychiatric evaluation showed that Claimant was diagnosed with major depressive disorder, recurrent, moderate; bipolar II disorder, depressed; and cannabis dependence and assigned a current global assessment of functioning (GAF) score of 45.

Claimant was seen at the emergency department on February 2, 2015, and February 3, 2015, complaining of jaw pain and headaches (Exhibit 1, pp. 58-74). He returned and was hospitalized from February 7, 2015, to February 9, 2015, following complaints of

migraine headaches, likely related to the extraction of three molar teeth the day before admission. A February 8, 2015, head MRI and MRA results were normal but noted that, based on some unusual findings and given the recent teeth extraction, clinical correlation was suggested for potential hemorrhage or infection within the right maxillary sinus and for maxillary soft tissue edema (Exhibit 1, pp. 1-13). Claimant returned on February 18, 2015, complaining of worsening headache, jaw pain, blurriness in the right eye region, nausea and vomiting, diarrhea, and temperature of 100.2 degrees. He was admitted with a diagnosis of osteomyelitis in the jaw following the dental extractions. The medical record for the admission showed history of myocardial infarction by enzymes but the catheterization showed normal coronary arteries. He was released on February 20, 2015 (Exhibit 1, pp. 48-57).

From April 26, 2015, to May 1, 2015, Claimant was hospitalized with depressed mood and suicidal ideations. He was diagnosed with major depression, recurrent, and mood disorder secondary to medical problems. The record referenced 6 to 7 past suicide attempts and current regular cannabis use. His general assessment of functioning (GAF) score was assessed at 20. Claimant's mood stabilized during his admission and he denied suicidal ideations. At discharge his insight was fair and his judgment was limited (Exhibit 1, pp. 23-47).

Hospital records from May 27, 2015, show that Claimant went to the emergency department after a slip and fall getting out of the shower that caused him to hit his head and be knocked unconscious. A CT of Claimant's head was negative and he was discharged in stable condition (Exhibit 2, pp. 1-5). Claimant returned to the hospital on May 28, 2015, complaining of ringing in his ear. The emergency department doctor did not find any cause for the ringing although he concluded that it could be a side effect of his medication. He referred Claimant to [redacted] and discharged him in stable condition (Exhibit 2, pp. 6-19).

On June 3, 2015, Claimant returned to the hospital complaining of being depressed and having suicidal thoughts. He reported that he had not eaten or drank in four days and had not monitored his sugar levels. He was transferred on June 5, 2015 to a psychiatric facility (Exhibit 2, pp. 20-38). Claimant was in inpatient psychiatric facility from June 5, 2015 to June 8, 2015. The records noted that the admission was Claimant's third psychiatric hospitalization, the first at [redacted] in fall 2014 after Claimant cut his wrist and second for six days in April 2015 at [redacted]. Claimant complained of a great deal of fatigue, hypersomnia and lack of appetite, and the doctor suspected his condition may have resulted from a head injury, noting that his condition had significantly improved. At discharge he was diagnosed with mood disorder as well as post-concussion syndrome and his prognosis was fair (Exhibit 4, pp. 46-56).

On June 26, 2015, Claimant's endocrinologist submitted notes from Claimant's office visit that day showing that Claimant was diagnosed with diabetes mellitus in [redacted] at [redacted] years old, had been using an insulin pump since [redacted], and checked his blood sugar three to four times daily. The doctor indicated that Claimant blood sugar was

consistently in the 200-300 but better controlled toward the end of the day (Exhibit 3, pp. 39-45).

In consideration of the de minimus standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 12 months. Therefore, Claimant has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination of whether the individual'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 an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

The medical evidence presented does **not** show that Claimant's impairments meet or equal the required level of severity of any of the above-referenced listings to be considered as disabling without further consideration. Listings 4.00 (cardiovascular system), 9.00 (endocrine disorders), and 12.04 (affective disorders) were considered. Because Claimant's impairments are insufficient to meet, or to equal, the severity of a listing, Claimant is not disabled under Step 3 and the analysis continues to Step 4.

Residual Functional Capacity

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Step 4, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. Impairments, and any related symptoms, may cause physical and mental limitations that affect what a person can do in a work setting. 20 CFR 416.945(a)(1). RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s) and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4). The total limiting effects of all impairments, including those that are not severe, are considered. 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants 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).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b). To determine the exertional requirements, or physical demands, of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a).

> 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.
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> 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. 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. If someone can do light work, … he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.
>
> 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, … he or she can also do sedentary and light work.
>
> 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, … he or she can also do medium, light, and sedentary work.
>
> Very heavy work.
> Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, … he or she can also do heavy, medium, light, and sedentary work.
>
> 20 CFR 416.967.

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of nonexertional limitations or restrictions 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).

In this case, Claimant testified that he had both exertional and nonexertional limitations. Claimant testified that he had ongoing chest pain and neuropathy in his hands and feet, but he could walk a mile and had no problems sitting, standing, bending or taking stairs. He limited the amount of lifting he did because he felt his heart rate increase. He lived with his mother and handled his own personal care. He could shop, drive, and do chores although he was sometimes so fatigued that he did not shower or leave his home. He testified that his memory was poor, he had weekly crying spells that lasted an hour, and he sometimes had panic attacks.

The medical record shows that, while Claimant did have heart issues in the past, they had resolved. Notes from his March 2014 admission indicated a history of myocarditis with healing of heart and good ejection fraction of 55% and no chronic artery disease. The notes indicated that recent chest pains were not cardiac in nature and Claimant was advised that he had a "decent heart and [he could] exercise" (Exhibit A, pp. 11-61). His August 2014 hospitalization records noted that Claimant carried a diagnosis of chronic heart failure but his record showed no evidence of systolic or diastolic dysfunction or valvular abnormalities (Exhibit 1, pp. 14-16). The medical record for the February 2015 admission showed history of myocardial infarction by enzymes but the catheterization showed normal coronary arteries (Exhibit 1, pp. 48-57). Therefore, Claimant's medical record does not support any exertional limitations due to heart issues. The medical record showed that Claimant was diagnosed with Type 1 diabetes as a child and took insulin. His blood sugars were not well-controlled, but there was no medical documentation supporting any exertional limitations. Further, Claimant's testimony reflected limited restrictions in his performance of activities of daily living. Based on the evidence presented, it is found that Claimant has the exertional RFC to perform medium work.

Claimant also alleged nonexertional limitations due to his mental condition. For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. Id.; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of mental functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4).

A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. Id. The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. Id.

As discussed above, Claimant's mental condition has not significantly affected his activities of daily functioning. He testified that he did not like to leave home and limited his interactions to his mother and sister, indicating mild to moderate limitations in his social functioning. Claimant's medical record showing four hospital admissions due to his mental condition [(1) November 25, 2012, to November 28, 2012; (2) March 14, 2014, to March 16, 2014; (3) April 26, 2015, to May 1, 2015; and (4) June 3, 2015, to June 5, 2015] reflect at least moderate limitations in his concentration, persistence or pace and, particularly in light of the last three admissions all within 15 months of one another which were followed by inpatient treatment at psychiatric treatment, indicate repeated episodes of decompensation. At each admission, Claimant complained of being depressed and having suicidal thoughts and include assignment of GAF scores in the 20s. In a January 2015 psychiatric evaluation, Claimant was diagnosed with major depressive disorder, recurrent, moderate; bipolar II disorder, depressed; and cannabis dependence and assigned a current global assessment of functioning (GAF) score of 45. The AHR attempted to obtain a mental residual functional capacity assessment and psychiatric evaluation completed by the current treating psychiatrist but the treater did not cooperate with requests. Based on the evidence presented, Claimant has a nonexertional RFC reflecting moderate limitations in his ability to perform work activities and repeated episodes of decompensation with a 15 month period.

Claimant's RFC is considered at both Steps 4 and 5. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step 4 in analyzing a disability claim requires an assessment of Claimant's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed within the past 15 years that was SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id*.; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

As determined in the RFC analysis above, Claimant is capable of medium work activities and has moderate limitations in his mental capacity to perform basic work activities. Claimant's work history in the 15 years prior to the application consists of work as a deli worker (light, unskilled), packing employee for a temporary agency (medium, unskilled), and office employee for a temporary agency (sedentary, unskilled). While Claimant maintains the exertional RFC to perform his previous work activity, he lacks the nonexertional RFC to perform such activities.

In light of the entire record and Claimant's RFC, particularly his mental limitations, it is found that Claimant is unable to perform past relevant work. Accordingly, Claimant cannot be found disabled, or not disabled, at Step 4 and the assessment continues to Step 5.

Step 5

In Step 5, an assessment of Claimant's RFC 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). If the individual can adjust to other work, then there is no disability. Disability is found if an individual is unable to adjust to other work. *Id.*

At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the RFC to obtain and maintain SGA. 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). When the impairment(s) and related symptoms, such as pain, only affect the ability to perform the exertional aspects of work-related activities, Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix 2, 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). However, 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). When a person has a combination of exertional and nonexertional limitations or restrictions, the rules pertaining to the strength limitations provide a framework to guide the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

In this case, Claimant was [redacted] years old at the time of application and [redacted] years old at the time of hearing and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He is a high school graduate with some college experience with a history of unskilled work experience. As discussed above, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform medium work activities. The Medical-Vocational Guidelines, 203.28, do not result in a disability finding based on Claimant's exertional limitations. Claimant also has nonexertional limitations resulting in moderate restrictions in his ability to perform basic work activities. In light of Claimant's three separate hospitalizations involving suicidal ideations with a 15-month span, it is found that Claimant lacks the ability to engage in sustained work activities. The record indicated that Claimant had procured ongoing psychiatric treatment, and it is anticipated that with such treatment, his situation will improve. However, based on current circumstances, after review of the entire record, including Claimant's testimony, and in consideration of

Claimant's age, education, work experience, physical as well as mental RFC, Claimant is found disabled at Step 5 for purposes of MA-P benefit program.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant disabled for purposes of the MA-P benefit programs.

DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING 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. Process Claimant's May 19, 2014, MA-P application, with request for retroactive coverage to March 2014, to determine if all the other non-medical criteria are satisfied and notify Claimant of its determination;

2. Supplement Claimant for lost benefits, if any, that Claimant was entitled to receive if otherwise eligible and qualified;

3. Review Claimant's continued eligibility in January 2016.

Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
epartment of Health and Human Services

Date Signed: **7/31/2015**

Date Mailed: **7/31/2015**

ACE / tlf

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: [redacted]