

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

IN THE MATTER OF:

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Reg. No.: 14-015683
Issue No.: 4009
Case No.: ██████████
Hearing Date: January 07, 2015
County: Clare

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, a telephone hearing was held on January 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████, Claimant's roommate; and ██████████, Claimant's mother. Participants on behalf of the Department of Human Services (Department) included ██████████, 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. Some of the requested documents were received by the due date, and the record was closed. The matter is now before the undersigned for a final determination.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the State Disability Assistance (SDA) 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 August 29, 2014, Claimant submitted an application for public assistance seeking SDA benefits.
2. On October 23, 2014, the Medical Review Team (MRT) found Claimant not disabled.
3. On an unknown date, the Department sent Claimant a Notice of Case Action denying the application based on MRT's finding of no disability.

4. On November 3, 2014, the Department received Claimant's timely written request for hearing.
5. Claimant alleged physical disabling impairment due to back pain and arthritis in the knee.
6. On the date of the hearing, Claimant was [REDACTED] years old with a [REDACTED], birth date; he is [REDACTED] in height and weighs about [REDACTED] pounds.
7. Claimant graduated from high school; he can read and write and do basic math.
8. Claimant has an employment history of work as an assistant manager at a dollar store and pizza establishment and cart pusher and stocker at a retail establishment.
9. Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

A disabled person is eligible for SDA. BEM 261 (July 2014), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

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 substantial gainful activity (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 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. 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 SDA 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 90 days. 20 CFR 416.922; BEM 261, p. 2.

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). Basic work activities mean the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include (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).

In the present case, Claimant alleges physical disabling impairment due to back pain and an arthritic knee. The medical evidence concerning his impairments presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

Claimant's records show ongoing back pain beginning May 2013. An August 5, 2013 MRI showed a herniated disk at the L5-S1 level causing mild stenosis of the superior aspect of the bilateral lateral recesses and probably impression upon the traversing bilateral S1 nerve roots in the superior aspect of the lateral recesses, which correlated with Claimant's bilateral lower extremity radiculopathy symptoms. The MRI also showed mild degenerative disk disease at the L2-L3 level without resulting in substantial spinal canal, lateral recess or neural foraminal stenosis. When epidural steroid injections, physical therapy, and radiofrequency neurotomies did not relieve his pain, Claimant's treating doctor, [REDACTED], referred him to a back surgeon, [REDACTED]. [REDACTED]'s notes show that Claimant described his pain as a burning sensation on the left side of his lower back radiating into both legs with intermittent numbness in both legs. He complained that his pain increased if he did not constantly move around and sitting for multiple hours brings tears to his eyes. In his physical examination of Claimant, [REDACTED] noted limited range of motion of the lumbar spine with pain upon extension, flexion, right or left lateral rotation. Surgery was scheduled to address his pain. (Exhibit 1, pp. 125-108; 70-34, 16, 11-9, 3-1.)

On April 1, 2014, an x-ray of Claimant's left knee was taken in response to Claimant's complaints of left knee pain. The x-ray showed minor arthritic changes in the left knee joint, no acute fracture, and small effusion, and normal proximal tibiofibular articulation (Exhibit 1, p. 102).

From June 13, 2014 to June 14, 2014, Claimant was hospitalized for a posterior lumbar interbody fusion to treat an L5-S1 disc displacement and degenerative disc disease with spondylolisthesis. (Exhibit 1, pp. 150-146, 139-138.) A post-operative lateral lumbar spine x-ray showed transpedicular screws at L5 and S1 and disc ram at L5-S1 and maintenance of the alignment of the lumbar vertebral bodies (Exhibit 3).

On June 25, 2014, Claimant went to his first operative appointment and told his doctor that he had some mild improvement with his legs since surgery but he did not have good stability when he removed his brace. Claimant was restricted from bending, twisting, pushing, pulling or lifting more than ten pounds. He could drive but had to wear a collar or brace when riding in the car or walking outside. (Exhibit 1, p. 106-104).

On July 23, 2014, Claimant went to his doctor after his car was rear-ended. The doctor noted that Claimant reported continued numbness and aching along his right leg and, although his gait was normal, he walked with a cane. Claimant had elevated blood pressure reading. (Exhibit 1, pp. 145-140.)

An August 13, 2014 x-ray of Claimant's lumbar spine showed no substantial scoliosis and a normal alignment of the vertebrae and normal disc space height. Mild wedge compression deformities of T12 and L1 vertebrae, most likely old, and mild endplate spondylosis in the lower thoracic and upper lumbar spine were noted. There were multilevel mild degenerative changes in the lumbar spine and posterior fusion postsurgical changes of L5 and S1 vertebrae with metallic rods and pedicle screws. (Exhibit 1, pp. 152, 137.)

On August 27, 2014, Claimant went to his doctor for his second post-operative exam after surgery. In the progress notes, the doctor noted that Claimant continued to complain of having lots of soreness and discomfort, with pain starting in his back and shooting down his leg. The pain was described as worse with activity and movement. In the physical exam, the doctor noted limited range of motion of the lumbar spine with pain upon extension, flexion, right or left lateral rotation. The straight-leg raise was negative, sitting. The doctor, after the physical exam and after reviewing the August 13, 2014 x-ray, concluded with the following impressions: (i) lumbar disc herniation with radiculopathy; (ii) spinal stenosis, lumbar region, with neurogenic claudication; and (iii) herniated lumbar intervertebral disc. The doctor indicated that Claimant was unable to work for at least 6 months due to the type of surgery he underwent and had restrictions of no excessive bending, lifting or twisting and a 10 pound weight limit. (Exhibit 1, pp. 154-152). The doctor's restrictions were included in a letter the doctor provided to the Clare County Friend of the Court; the letter also indicated that Claimant may be unable to return to work up to 18 months. (Exhibit 1, p. 136.)

On November 26, 2014, Claimant went to his neurosurgeon for a follow-up after physical therapy and advised his doctor that he was still struggling with severe pain in his lower back and burning down his legs, with intermittent numbness in both of his feet. The office notes indicate that Claimant was having difficulty walking and standing and had restrictions including no bending, lifting or twisting and 15 pounds. In his examination of Claimant, the doctor noted limited range of motion of the lumbar spine with pain upon extension, flexion, right or left lateral rotation. He also noted that the straight-leg raise was positive sitting 35 degrees down both legs. Strength in the lower and upper extremities was 5/5. The doctor concluded that Claimant had lumbar disc herniation with radiculopathy. (Exhibit 3.)

On January 15, 2015, Claimant's physiatrist (specialist in physical medicine and rehabilitation), completed a medical examination report, DHS-49. In his physical examination of Claimant, the doctor noted low back and left knee pain and crepitus with range of motion. The doctor noted that Claimant used a straight cane as needed. The doctor identified the following physical limitations: (i) Claimant could occasionally lift 10 pounds but never more; (ii) he could sit less than 6 hours in an 8-hour workday; (iii) he could use both hands and/or arms for simple grasping and fine manipulating but neither for reaching and pushing/pulling; (iv) he could not use either foot and/or leg to operate foot/leg controls. (Exhibit 3.)

On January 19, 2015, Claimant's neurosurgeon, completed a medical examination report, DHS-49, listed Claimant's current diagnosis as lumbar disc herniation with radiculopathy and noted the posterior lumbar interbody fusion, L5/S1 on June 13, 2014. The doctor identified Claimant's condition as "unchanged stable" and identified the following physical restrictions: (i) Claimant could occasionally lift 10 pounds "as tolerated, no excessive" but never more; (ii) he could stand/walk and sit "as tolerated;" (iii) he could not use either hand/arm for reaching or pushing/pulling; (iv) he could use both hands/arms for simple grasping and fine manipulating with the limitation of "no repetitive movements" identified in writing; (v) concerning operating foot and leg controls, the doctor indicated "driving as tolerated." The doctor indicated that Claimant was still recovering from surgery. (Exhibit 3.)

Although Claimant also testified that his condition had resulted in stress, Claimant's medical records do not show diagnosis of or treatment for any mental conditions. However, 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 due to back and knee pain that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Claimant has satisfied the requirements under Step 2, and the analysis will proceed to Step 3 with respect to the diagnosis of, and treatment for, back and knee pain.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if 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 evidence shows diagnosis of, and treatment for, knee and back pain. Based on the objective medical evidence concerning these conditions, Listing 1.00 (musculoskeletal system), particularly 1.02 (major dysfunction of a joint) and 1.04 (disorders of the spine) was reviewed. Claimant's medical record does not establish a compromise of a nerve root or spinal cord necessary to support a listing for disorders of the spine under 1.04. To support a listing for dysfunction of a hip, knee or ankle joint under 1.02(A), the client must have an inability to ambulate effectively as defined in 1.00B2b. Ineffective ambulation is defined generally as having insufficient lower extremity functioning to permit independent ambulation without the use of a hand-held assistive device that limit the functioning of both upper extremities. While one of Claimant's doctor noted that Claimant used a straight cane as needed, because the medical record does not establish ongoing use of assistive device that limited the functioning of both upper extremities, the medical evidence concerning Claimant's impairment was insufficient to support the severity necessary to support a listing under 1.02(B).

At the hearing, Claimant also testified that his condition had resulted in stress. While Listing 12.06 (anxiety-related disorders) was reviewed, Claimant's medical records do not show diagnosis of, or treatment for, any mental conditions. Therefore, Claimant's medical records do not support a finding that the level of severity of impairments is sufficient to meet, or equal, the requirements under Listing 12.06.

Accordingly, the evidence does **not** show that Claimant's impairments meet, or are equal to, the required level of severity of a listing to be considered as disabling without further consideration. The analysis proceeds 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 RFC takes into consideration the total limiting effects of all impairments, including those that are not severe. 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.

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 non-exertional 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 alleges both exertional and nonexertional limitations due to his medical condition. With respect to his physical limitations, Claimant testified that he wore a brace on his knee; he could walk 20 to 30 feet but would then experience excruciating pain; he experienced pain in his lower back after 40 minutes of sitting; he could take stairs but it hurt; he could lift 10 pounds but more would cause pain; he could stand for 20 to 30 minutes. He testified that he lived with his three children and a roommate; he could bath and dress himself but his roommate sometimes helped him get out of the shower and he could not tie his shoes; he tried to cook, clean and do laundry but had to sit down after 20 to 30 minutes of standing; he could shop only by leaning on the cart for support when walking and having his roommate bend and lift to pick up items; and he rarely drove by himself because he relied on others to look around the vehicle.

Claimant's neurosurgeon and physiatrist both indicated that Claimant could occasionally lift 10 pounds but never more and restricted his use of his hand and/or arms from reaching and pushing/pulling. The physiatrist also restricted Claimant's use of his feet and/or legs from operating foot/leg controls while the neurologist did not identify any limitations, but wrote in "driving as tolerated." The neurologist did not identify any walking/standing or sitting restrictions other than "as tolerated." The physiatrist indicated that Claimant could sit less than 6 hours in an 8-hour day; because the boxes on the form do not line up with the options for walking and standing restrictions, it is unclear what, if any, restrictions were identified.

Based on the record presented, Claimant continues to have exertional limitations as a consequence to his June 2014 spinal fusion surgery. While it is anticipated that these restrictions would lessen over time, in light of the limitations currently posed by Claimant's neurosurgeon and physiatrist, particularly the weight limits and sitting restrictions, and based on Claimant's testimony concerning his pain and limitations which is consistent with the medical record, it is found that Claimant currently maintains

the physical capacity to perform less than sedentary work as defined by 20 CFR 416.967(a).

Claimant also alleged nonexertional limitations due to his stress. 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). As discussed above, there was no medical evidence presented establishing any limitations due to mental impairments and Claimant's testimony did not establish that his mental condition prevented him from performing basic work activities. Accordingly, Claimant has failed to present any limitations due to his mental impairments.

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 limited to less than sedentary work activities. Claimant's work history in the 15 years prior to the application consists of work as an assistant manager at a dollar store and pizza establishment (medium to heavy, unskilled), and cart pusher, stocker and truck unloader at a retail establishment (heavy, unskilled). In light of the entire record and Claimant's RFC, 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.

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 substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding

supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978).

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).

In this case, at the time of hearing, Claimant was ■ years old and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He is a high school graduate with a history of unskilled work experience that is nontransferable. As discussed above, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform less than sedentary work activities. After review of the entire record, including Claimant's testimony, and in consideration of Claimant's age, education, work experience, and physical RFC, Claimant is found **disabled** at Step 5 for purposes of SDA benefit program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled for purposes of the SDA benefit program.

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 August 29, 2014, SDA application 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 March 2016.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/5/2015**

Date Mailed: **3/5/2015**

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.

