

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 2013-69515  
Issue No.: 2009  
Case No.: ██████████  
Hearing Date: March 5, 2014  
County: Wayne (82-82)

**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 March 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████  
██████████ Participants on behalf of the Department of Human Services (Department) included ██████████

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 records were received, reviewed, and forwarded to the State Hearing Review Team (SHRT) for consideration. On May 30, 2014, this office received the SHRT determination which found Claimant not disabled. This matter is now before the undersigned for a final determination.

**ISSUE**

Did the Department properly determine that Claimant was not disabled for purposes of the Medical Assistance (MA-P) 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 June 4, 2013, Claimant submitted an application for public assistance seeking MA-P benefits, retroactive to March 2013.

2. On July 18, 2013, the Medical Review Team (MRT) found Claimant not disabled.
3. On July 26, 2013, the Department sent Claimant a Notice of Case Action denying the application based on MRT's finding of no disability.
4. On September 19, 2013, the Department received Claimant's timely written request for hearing.
5. On November 1, 2013, and May 23, 2014, SHRT found Claimant not disabled.
6. Claimant alleged physical disabling impairment due to chronic obstructive pulmonary disease (COPD), degenerative disc disease (DDD) and glaucoma.
7. Claimant alleged mental disabling impairments due to depression.
8. At the time of hearing, Claimant was 50 years old with [REDACTED] birth date; she was 5'7" in height and weighed 160 pounds.
9. Claimant is a high school graduate, with some college, and has an employment history of work as a housekeeper and child care provider.
10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

### **CONCLUSIONS OF LAW**

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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

MA-P benefits are available to disabled individuals. BEM 105 (January 2014), p. 1; BEM 260 (July 2013); BEM 261 (July 2013), p. 1. In order to receive MA benefits based upon disability, Claimant must be disabled as defined in Title XVI of the Social Security Act. 20 CFR 416.901. Disability for MA purposes is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a).

In order to determine whether or not an individual is disabled, federal regulations require application of a five-step sequential evaluation process. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider (1) whether the individual is engaged in substantial gainful activity; (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)(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 substantial gainful activity (SGA), then the individual must be considered as 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 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. 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. A disability claim obviously lacking in medical merit may be dismissed. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). However, under the *de minimus* standard applied at step 2, an impairment is severe unless it only is a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs* at 862.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). In the present case, Claimant alleges physical disability due to COPD, DDD and glaucoma. The record also references depression and sleep apnea.

██████████ Claimant was seen at the emergency department complaining of shortness of breath with some associated chest tightness with coughing. Her chest x-ray showed no acute pulmonary process, with no change since ██████████. She was treated with steroids and a nebulizer. Her condition significantly improved and she was discharged.

██████████ a physical consultation report was issued followed an examination of Claimant ordered by the Social Security Administration. The consulting doctor noted that Claimant reported beginning treatment for COPD in ██████████ and for hypertension for the preceding three years and suffering from chronic back pain for the preceding 20 years. In performing the physical exam, the doctor noted that Claimant's range of motion of the cervical and thoracic spine was full, and there was no S-1 joint tenderness, no spasms felt on palpation of the muscles, no midline spine tenderness. The straight leg raise was negative bilaterally at 40 degrees in the supine position.

Bilateral hips, knees and ankles, as well as bilateral shoulders, elbows and wrists, had full range of motion. The doctor also noted that muscle power was 5/5 in all extremities, speech was normal, and Claimant was oriented to time, person and place. No limp was noted, no cane was used, and gait was steady. Claimant was able to get off the examination table and chair without any assistance. The doctor found no limitation in Claimant's abilities or range of motion. The doctor found that, based on her examination, Claimant could sit, stand and walk, and bend and lift 20 pounds of weight without difficulty eight hours a day and concluded that she had no significant function impairment

██████████ Claimant also had a mental exam pursuant to a request by SSA and a report was prepared. Claimant reported a good relationship with her siblings, daughter, peers, and neighbors. She resided alone in her own home. Based on Claimant's responses to questions during the exam, the psychologist concluded that Claimant was able to (i) acquire and use information, (ii) attend to a task presented during the examination session, (iii) interact appropriately in the examination and with the examiner; (iv) care for herself; (v) ask questions; and (vi) follow simple directions. The examiner concluded that Claimant was able to understand, retain and follow simple instructions and generally restricted to performing simple, routine, repetitive, concrete and tangible tasks. She would need a public guardian to manage her benefit funds. The examiner diagnosed Claimant with adjustment disorder with depressed mood; bereavement. He assessed her with a global assessment functioning (GAF) score of 60.

██████████ Claimant was seen at the emergency department for back pain, which she described as an aching pain that occasionally radiated down her legs into her toes. She was observed to have intact range of motion to the spine without pain or restriction of motion. The doctor noted no evidence of any cord compression symptoms by history or on examination. Claimant was diagnosed with chronic back pain likely secondary to degenerative joint disease.

During her physical, Claimant was noted to be wheezing and informed the doctor that she had been experiencing shortness of breath for about two months and been without an inhaler for about a year because she lacked insurance. She indicated that her condition had improved when she came to the emergency department the previous month but the improvement was short-lived. She stated that her shortness of breath had worsened and was now affecting her when she showered and put on clothes. Claimant was treated for COPD exacerbation with minimal improvement and admitted for monitoring. A chest x-ray showed no acute cardiopulmonary process. When previously prescribed home medications (Spirivia and Symbicort) were resumed and steroids administered, her condition improved and she was discharged ██████████ ██████████ in stable condition.

██████████ Claimant was seen at the emergency department complaining of back pain. She indicated that she used to take Naprosyn but ran out of her medication

and did not have any insurance. She was diagnosed with chronic back pain and administered Naprosyn and valium. She was discharged in stable condition.

██████████ Claimant was seen at the emergency department complaining of shortness of breath and was diagnosed with acute bronchospasm, COPD with wheezing. Chest x-rays were negative. She was administered prednisone and atrovent. She was provided with an albuterol inhaler and sent home in improved condition.

██████████ mammogram was stable and showed no evidence to suggest malignancy in either breast.

██████████ Claimant was seen at the emergency department complaining of shortness of breath and was admitted to the observation unit for COPD exacerbation. A chest x-ray showed no acute pulmonary process and no significant change compared to ██████████ exam. Claimant was diagnosed with acute COPD exacerbation and administered steroids, albuterol/atrovent and doxycycline. Her symptoms improved, and she was discharged ██████████ in stable condition.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments based on COPD, chronic back pain, and depression 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 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, lower back pain and COPD. Based on the objective medical evidence, Listing 1.04 (disorders of the spine) Listing 11.14 (peripheral neuropathy) and Listing 3.02 (chronic pulmonary insufficiency) were considered. A listing under 1.04 requires a compromise of a nerve root or spinal cord. There was no evidence in this case establishing a nerve root or spinal cord compression. To the contrary, the emergency department doctor who examined Claimant ██████████ noted that there was no evidence of any cord compression symptoms by history or on examination. A listing under 11.14 requires a disorganization of motor function of a degree that the record in this case fails to support. A listing under 3.02 is established only if the cited clinical standards specified are satisfied. Claimant's record does not include any of the relevant clinical readings. Accordingly, the evidence does **not** show that Claimant's COPD or lower back pain

meets or is equal to the required level of severity of a listing to be considered as disabling without further consideration.

Because the record also references sleep apnea and depression, Listing 3.10 (sleep-related breathing disorders) and Listing 12.04 (affective disorders) were considered. The medical record contains minimal objective medical evidence concerning Claimant's sleep apnea and depression and is not sufficient to establish the severity necessary to meet, or to equal, a listing under 3.10 or 12.04.

Claimant also alleged that she suffered from glaucoma. However, there was no objective medical evidence in the record concerning this condition.

Because Claimant's physical and mental conditions 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 applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

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 (i.e., sitting, standing, walking, lifting, carrying, pushing, or pulling), 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).

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.*

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.*

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 testified that she experienced ongoing shortness of breath, with attacks twice a week. She also testified that she had lower back pain that affected both legs and hips beginning at the torso and working its way down both legs. She testified that medications helped with her breathing issues but she was unable to afford treatment. Back surgery had been recommended for her back pain.

Claimant testified that she could walk a block, but then she had to stop. She explained that when she stood, she had to rock from side-to-side to deal with the pain. She could go up stairs but had difficulties when she stopped. She could sit not more than two hours daily but had to get up every 20 minutes to move. She could bend and squat but had difficulty rising. She could lift possibly eight pounds but had issues gripping, grasping and reaching. She testified that her arms were sore, with pain similar to what she felt in her legs. She testified that she lived alone. She dresses herself and cares for herself. She cooks and does laundry but has someone help her with cleaning. She has her daughter help her with her shopping. She has social interactions with family and admitted that she got along with people. She had blurry vision that kept her from driving and limited her ability to read.

Claimant also testified that she was depressed about her condition. She had crying spells twice a week that lasted 15 minutes each. She also had violent thoughts and suicidal thoughts, but she pushed those thoughts aside. She used to see a psychologist in [REDACTED] until she lost her Medicaid. She stated that her memory was poor and she did not understand things stated to her. It is noted that Claimant was responsive to all questions asked to her during the hearing.

Claimant testified that she wakes up every day with a headache that usually goes away during the day, but she was able to function even if it did not go away. She had high blood pressure. She had some problems swallowing but was able to work around that problem.

Claimant's testimony and the medical record establish that Claimant's COPD and chronic back pain affect her ability to walk. However, according to her own testimony, Claimant maintains the ability to sit for up to two hours daily. Although the doctor who performed the [REDACTED] physical exam found that there was no limitation in Claimant's range of motion, Claimant went to the emergency department for back pain [REDACTED] establishing that she does have some limitations due to pain. However, the [REDACTED] exam showed that Claimant did not have a limp or use a cane and her gait was steady. Therefore, Claimant's ability to stand is not as restricted as Claimant's testimony suggests. Claimant continues to live alone and is able to care for many of her own needs. Although Claimant testified that she was only able to lift 10 pounds, the doctor in the [REDACTED] exam concluded that she could lift 20 pounds and there is no other medical evidence in the record to dispute the doctor's findings. It is noted that, when asked to describe what conditions led to her application for MA-P, Claimant's complaint addressed primarily her legs and the only time she indicated that she had difficulty with her hands was when she was directly asked about it. After review of the entire record to include Claimant's testimony, it is found that Claimant maintains the physical capacity to perform limited light work as defined by 20 CFR 416.967(b) with respect to the ability to sit/stand/walk at will.

The record also indicates limitations on mental ability to perform basic work activities. In the [REDACTED] mental examination report, Claimant was diagnosed with adjustment disorder with depressed mood. Even though the examiner restricted

Claimant to performing simple, routine, repetitive, concrete and tangible tasks and indicated that she would need a public guardian to manage her benefits, he concluded that she was able to understand, retain and follow simple instructions and had a GAF score of 60. Claimant admitted that she socialized with her family and got along with other people. Based on the record presented, including Claimant's testimony, Claimant has mild restrictions on her mental ability to function independently, appropriately, effectively, and on a sustained basis.

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

#### **Step Four**

The fourth step 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 a substantial gainful activity 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 physically limited to light work activities and has mild limitations on her mental capacity to perform basic work activities. Claimant's prior work history in the 15 years prior to the application consists of work as a child care provider (semi-skilled, light) and a housekeeper (unskilled, light). In light of the degree of walking necessary to perform either of Claimant's prior employment, it is found that Claimant is not capable of performing past relevant work. Accordingly, the 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). 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). 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). The age for younger individuals (under 50) generally will not seriously affect the ability to adjust to other work. 20 CFR 416.963(c). 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.*

In this case, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical demands required to perform light work as defined in 20 CFR 416.967(b), with some walking restrictions, and has, at most, mild restrictions on her mental ability perform basic work activities. At the time of hearing, Claimant was 50 years old and, thus, considered to be closely-approaching advanced age for MA-P purposes. Claimant is a high school graduate with some college. Accordingly, after review of the entire record and in consideration of Claimant's age, education, work experience, RFC, using the Medical-Vocational Guidelines (20 CFR 404, Subpart P, Appendix II), specifically Rule 202.14, as a guide, and considering the mild restrictions on Claimant's mental capacity to perform basic work activities, Claimant is found **not** disabled at Step 5.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds Claimant **not** disabled for purposes of the MA-P programs.

Accordingly, It is ORDERED that the Department's determination is AFFIRMED.



**Alice C. Elkin**  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: June 19, 2014

Date Mailed: June 19, 2014

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

ACE/pf

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]