

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014 20610
Issue No.: 2009, 4009
Case No.: [REDACTED]
Hearing Date: March 17, 2013
County: Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 17, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Medical Contact Worker and ES [REDACTED], Medical Contact Worker and ES, assigned to this case, who did not appear but is the caseworker assigned to this case.

ISSUE

Whether the Department properly determined that Claimant is not "disabled" for purposes of the Medical Assistance (MA-P) and State Disability Assistance (SDA) benefit programs?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On June 17, 2013, Claimant applied for MA-P and SDA.
2. On October 4, 2013, the Medical Review Team denied Claimant's request.
3. The Department sent the Claimant the Notice of Case Action dated October 11, 2013 denying the Claimant's MA-P and SDA application. Exhibit 1

4. On October 22, 2103, Claimant submitted to the Department a timely hearing request.
5. On February 21, 2014, the State Hearing Review Team (“SHRT”) found the Claimant not disabled and denied Claimant’s request.
6. An Interim Order was issued on March 19, 2014 ordering the Claimant’s Authorized Hearing Representative to submit updated DHS 49’s from the Claimant’s treating cardiologist(s) and pulmonologist
7. On August 19, 2014, the State Hearing Review Team denied Claimant’s request and found Claimant not disabled.
8. Claimant at the time of the hearing was 46 years old, with a birth date of [REDACTED]. Claimant’s height was 5’1” and weight was 180 pounds.
9. Claimant completed high school and had an Associate’s degree in business management.
10. Claimant’s prior work experience consists of working in the human resources department for a casino, processing applications, and distributing badges, and as a secretary for a Head Start Program performing clerical work, and filing. The Claimant also worked for temporary agencies in a variety of secretarial jobs performing clerical work and typing. The Claimant also worked for the Detroit Housing Commission processing tenant payments as an accounting clerk and as a manager of an after school program, and finally had a property preservation company which made repairs for real estate agencies and banks on homes.
11. Claimant alleges physical disabling impairments due to chronic heart failure, pulmonary artery disease, and migraines.
12. The Claimant did not allege mental disabling impairments on her application.
13. Claimant’s impairments have lasted or are expected to last for 12 months duration or more.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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 MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 –

400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal SSI disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. Under SSI, disability 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 set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, Appendix 1, 12.00(C).

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

Pursuant to 20 CFR 416.920, a five-step sequential evaluation process is used to determine disability. An individual's current work activity, the severity of the impairment, the residual functional capacity, past work, age, education and work experience are evaluated. If an individual is found disabled or not disabled at any point, no further review is made.

The first step is to determine if an individual is working and if that work is "substantial gainful activity" (SGA). If the work is SGA, an individual is not considered disabled regardless of medical condition, age or other vocational factors. 20 CFR 416.920(b).

Secondly, the individual must have a medically determinable impairment that is "severe" or a combination of impairments that is "severe." 20 CFR 404.1520(c). An impairment or combination of impairments is "severe" within the meaning of regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. 20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the Claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the Claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

The third step in the process is to assess whether the impairment or combination of impairments meets a Social Security listing. If the impairment or combination of impairments meets or is the medically equivalent of a listed impairment as set forth in Appendix 1 and meets the durational requirements of 20 CFR 404.1509, the individual is considered disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the trier must determine the Claimant's residual functional capacity. 20 CFR 404.1520(e). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, the trier must consider all of the Claimant's impairments, including impairments that are not severe. 20 CFR 404.1520(e) and 404.1545; SSR 96-8p.

The fourth step of the process is whether the Claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f). The term past relevant work means work performed (either as the Claimant actually performed it or as is it generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. If the Claimant has the residual functional capacity to do his/her past relevant work, then

the Claimant is not disabled. If the Claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth step.

In the fifth step, an individual's residual functional capacity is considered in determining whether disability exists. An individual's age, education, work experience and skills are used to evaluate whether an individual has the residual functional capacity to perform work despite limitations. 20 CFR 416.920(e).

The Claimant alleges physical disabling impairments due to chronic heart failure, pulmonary artery disease and migraines. The Claimant did not allege mental disabling impairments on her application.

A summary of the Claimant's medical evidence presented at the hearing and the new evidence presented follows.

After recording some improvement in March 2014, and that the Claimant was stable after several procedures on her heart and venous system detailed below, due to the Claimant's chronic heart disease, the Claimant's treating physician advised that on July 3, 2014, the Claimant was to undergo major heart surgery with an anticipated 7 to 10 day hospital stay, and 4 to 6 weeks recovery period depending on post-operative course.

The Claimant was seen at the Heart and Vascular Institute on March 10, 2014 for follow-up and cardiology consultation. At the time, the Claimant weighed 180 pounds and was 5'1" with a BMI of 33.4. The Claimant was seen post procedure and reported mild soreness on both her groins post procedure. The past surgical history noted cardiac catheterization, and mitral stenosis status post valvuloplasty on February 3, 2014. The medical history taken noted hypertension, deep vein thrombosis, coronary artery disease, hyperlipidemia, recent TIA and valvuloplasty. At the examination, the Claimant's blood pressure was 115/73. The Claimant was alert, oriented times 3 and in no apparent distress. The cardiovascular system was also reviewed, the regular rate and rhythm was noted at S1 and S2. There were no rubs, gallops or murmurs appreciated. Point of maximal intensity, fifth intercostal mid-clavicular. Extremities noted no clubbing cyanosis or edema +2 pulses bilaterally and 5/5 muscle strength.

The assessment and plan noted the following: patient underwent mitral valvuloplasty on February 3, 2014, and the transthoracic echocardiogram post procedure showed a rheumatic deformity of the mitral valve with a mitral valve area of 1.25 cm. Patient admits some symptoms improvement.

Atrial fibrillation: patient has a history of atrial fibrillation; however, the EKG showed normal sinus rhythm and no sign of atrial fibrillation. A 48-hour Holter exam was ordered to assess episodes of failure.

Coronary artery disease: patient denied complaints of chest pain. Stress test on January 23, 2014 showed normal myocardial perfusion. Cardiac catheterization done

February 14, 2013, showed a right dominant coronary circulation with 30% stenosis in mid-and proximal lower descending artery(LAD). Minor irregularities of the proximal left main, first diagonal, second diagonal proximal circumflex and proximal right carotid artery were seen. The patient has non-obstructive coronary disease and is currently on anti-anginal and beta-blockers.

Peripheral artery disease screening: the patient underwent an ABI test which showed normal test bilaterally 1.15.

Exertional dyspnea: the Claimant admitted to improved exercise tolerance. Pulmonary function test on January 16, 2014 was normal. An echocardiogram done on this date showed normal left ventricular ejection fraction and 55 – 60%, with a moderate concentric left ventricular hypertrophy and agreed to diastolic dysfunction.

Shortness of breath: the patient's shortness of breath was due to mitral stenosis and has improved post mitralvalvuloplasty. Condition was to be monitored.

Deep vein thrombosis: the patient has a history of previous catheterization in February 2013; a venous ultrasound will be planned.

The Claimant's pulmonologist; who she had seen for one month; completed a Medical Examination Report on April 15, 2014. The current diagnosis was pulmonary hypertension. All examination areas were noted as normal, the clinical impression was that the Claimant was stable; however, limitations were imposed. The Claimant was totally restricted from lifting less than 10 pounds and could not use her hands/arms for repetitive action and could not operate foot or leg controls. The Claimant was evaluated as capable of standing and/or walking less than two hours in an eight-hour workday. The Claimant was evaluated as capable of meeting her needs in the home.

On March 28, 2014 a Medical Examination Report was completed by another cardiologist who had seen Claimant since 2013, for approximately one year. The diagnosis was coronary artery disease history of transient ischemic attacks and mitral valve stenosis. At the time of the exam, the examiner noted that the Claimant complained of exertional chest pain and shortness of breath. The report noted MS and MR murmurs. The Claimant's condition was rated as stable and the examining doctor imposed the following limitations. The Claimant could occasionally lift 10 pounds, stand and/or walk less than two hours in an eight-hour workday, and no limitations were noted with regard to use of the hands, arms, feet or legs for repetitive action. The doctor noted that the limitations were imposed due to the Claimant having severe shortness of breath with mild exertion. The Claimant could meet her needs in the home and the functional information completed by the physician was noted to be based on supportive medical findings and not subjective complaints of the Claimant. The doctor based the findings on diastolic dysfunction with sclerotic mitral valves, mitral regurgitation moderate. Mild to moderate aortic regurgitation.

A third Medical Examination Report was also completed on April 2, 2014, by the doctor she had seen on March 10, 2014. At that time, the Doctor noted that physical therapy was necessary for strength training and because of two mild strokes. At the time, the Claimant was noted as improving. The Claimant could lift occasionally up to 25 pounds. There were no limitations on standing/walking and sitting; assistive devices were not necessary and no limitations regarding use of her hands arms,/feet and legs with repetitive action were noted. The Claimant was also capable of meeting her needs in the home. This same doctor reported that the Claimant was to subsequently undergo major open-heart surgery in July 2014.

The Department was ordered by an Interim Order to obtain hospital admission records from Harper hospital for November 2013 and February 2014, admissions for heart angioplasty.

A trans-thoracic at goal cardiogram report was produced on February 13, 2013. The conclusion noted normal left ventricular size wall thickness and systolic function. No regional wall motion abnormalities observed. Abnormal left ventricular diastolic filling pattern for age. Mild left atrial dilation. Rheumatic deformity of the mitral valve with diastolic domain of the anterior mitral leaflet. Moderate mitral valve stenosis. Mitral valve mean gradient is 8.1 mm hg at a heart rate of 64 bpm. Mitral valve area by pressure – halftime 1.4 cm. Moderate mitral regurgitation. Mild tricuspid valve regurgitation. Estimated peak right ventricular systolic pressure 42 mmhg.

The Claimant was admitted to the hospital on February 13, 2013 for a two-day stay. Only the discharge information and follow up appointments documentation were available, not the actual hospitalization records.

On July 18, 2013, Claimant was seen by a cardiologist who has treated her for several months. The diagnosis was coronary artery disease, chest pain, hypertension and hyperlipidemia. The Claimant weighed 184 pounds. The Claimant was rated as stable and the following limitations were imposed. The Claimant was restricted from lifting any weight, could stand or walk less than two hours in an eight-hour workday, and sit less than six hours in an eight-hour workday. The Claimant had full use of her hands/arms and feet/legs. The notes indicated that the medical findings which supported the limitations included persistent anginal symptoms. The remainder of the findings could not be read due to the physician's handwriting.

The Claimant was admitted to the hospital on February 12, 2013, for a three-day stay due to complaints indicating unstable angina, coronary artery disease and abnormal stress test. At the time of the admission, the Claimant had the following procedures performed, left heart catheterization with ventriculography, root aortography, left coronary angiography, right coronary angiography, and diagnostic IVUS. The summary also noted a mildly elevated LVEDP with LVEDO of 20-mmHg and ejection fraction of 60%. The proximal LAD there was 30% stenosis. With respect flow the mid-lower descending artery, there was 30% stenosis.

On March 20, 2013, a lower extremity venous report was provided. There was no evidence of deep vein thrombosis for either the right or left lower extremity.

The Claimant's internal medicine doctor completed a Medical Examination Report on March 12, 2013. The Claimant has seen this doctor since 2009. At the time of the exam, diagnosis was deep vein thrombosis, cellulitis of the right groin and headaches. The doctor at that time imposed limitations, evaluating the Claimant as stable, and based the limitations on cardiac catheterization on February 14, 2013 and February 5, 2013 stress test. The Claimant at that time was evaluated as capable of lifting less than 10 pounds, standing and/or walking less than two hours in an 8-hour workday and sitting less than six hours in an eight-hour workday, with full use of her hands, arms, legs, and feet for repetitive actions.

Here, Claimant has satisfied requirements as set forth in steps one and two, as Claimant is not employed and her impairments have met the Step 2 severity requirements.

In addition, the Claimant's impairments have been examined in light of the listings and after a review of the evidence, the Claimant's impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416.926. Listing 4.00 cardiovascular system (4.02) was reviewed and provides:

4.02 Chronic heart failure while on a regimen of prescribed treatment, with symptoms and signs described in 4.00D2. The required level of severity for this impairment is met when the requirements in *both A and B* are satisfied.

A. Medically documented presence of one of the following:

1. Systolic failure (see 4.00D1a(i)), with left ventricular end diastolic dimensions greater than 6.0 cm or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); or
2. Diastolic failure (see 4.00D1a(ii)), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater on imaging, with an enlarged left atrium greater than or equal to 4.5 cm, with normal or elevated ejection fraction during a period of stability (not during an episode of acute heart failure);

AND

B. Resulting in one of the following:

1. Persistent symptoms of heart failure which very seriously limit the ability to independently initiate, sustain, or complete activities of daily living in an individual for whom an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that the performance of an exercise test would present a significant risk to the individual; or

2. Three or more separate episodes of acute congestive heart failure within a consecutive 12-month period (see 4.00A3e), with evidence of fluid retention (see 4.00D2b(ii)) from clinical and imaging assessments at the time of the episodes, requiring acute extended physician intervention such as hospitalization or emergency room treatment for 12 hours or more, separated by periods of stabilization (see 4.00D4c); or
3. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less due to:
 - a. Dyspnea, fatigue, palpitations, or chest discomfort; or
 - b. Three or more consecutive premature ventricular contractions (ventricular tachycardia), or increasing frequency of ventricular ectopy with at least 6 premature ventricular contractions per minute; or
 - c. Decrease of 10 mm Hg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise (see 4.00D4d) due to left ventricular dysfunction, despite an increase in workload; or
 - d. Signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion.

Although the Claimant's condition is serious and has required numerous hospitalizations and a recent major open-heart surgery, the specific medical testing information was not demonstrated by the available medical evidence. Therefore, vocational factors will be considered to determine Claimant's residual functional capacity to do past relevant work.

In the present case, Claimant alleges physical disabling impairments, due to chronic heart failure, pulmonary artery disease and migraines which are detailed above.

Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions. Claimant's treating physician noted that Claimant would be able to stand and walk for less than 2 hours in an 8-hour day, occasionally lifting 10 pounds; however, in light of the recent major open-heart surgery the earlier evaluations placing the Claimant at less than sedentary must be considered. There were no limitations with regard to the Claimant's ability to use her hands or her arms, or feet and legs, however her pulmonologist did severely limit use of her hands and legs. The Claimant was capable of meeting her needs in the home based upon her examinations. The Claimant was also prescribed physical therapy due to weakness.

Claimant credibly testified to the following symptoms and abilities: the Claimant indicated that she avoids grocery shopping due to her right leg going out and does not

vacuum or do laundry because she has difficulty carrying it, climbing stairs and has fatigue and shortness of breath. On a “good day” she could stand 20 minutes and on a bad day she could stand only 5 or 10 minutes. The same symptoms of fatigue and shortness of breath occur when walking or attempting to climb stairs. The Claimant indicated she no longer drives a car since 2013. The Claimant could not walk more than two blocks. The Claimant could bend at the waist backward and to the side and could not perform a squat. Claimant also testified that occasionally she has difficulty sitting due to pain in her right leg and arm due to angina. Claimant credibly testified she could carry a quart of milk (2 pounds) in weight. The Claimant’s testimony was deemed credible.

The fourth step of the analysis to be considered is whether the Claimant has the ability to perform work previously performed by the Claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Claimant from doing past relevant work. In the present case, Claimant’s past employment included working in the human resources department for a casino, processing applications, and distributing badges, working as a secretary for a Head Start Program performing clerical work, and filing. The Claimant also worked for temporary agencies in a variety of secretarial jobs performing clerical work and typing. The Claimant also worked for the Detroit Housing Commission processing tenant payments as an accounting clerk and as a manager of an after-school program, and finally had a property preservation company which made repairs for real estate agencies and banks on homes. All of these jobs involved a combination of sitting, standing, walking, lifting, carrying and driving. Given the Claimant’s most recent deterioration, and the previous DHS 49 from several of her treating doctors placing her at less than sedentary, the Claimant can no longer perform any of this work.

Given the Claimant’s limitations with walking, standing, and sitting imposed by her cardiologist, and her other limitations with walking and climbing stairs, require abilities and capabilities, that based on the limitations presented, cannot be any longer achieved by the Claimant. Therefore, it is determined that the Claimant is no longer capable of past relevant work. Thus, a Step 5 analysis is required 20 CFR 416.920(e).

In the final step of the analysis, the trier of fact must determine if the Claimant’s impairment(s) prevent the Claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the Claimant’s:

1. residual functional capacity defined simply as “what can you still do despite your limitations?” 20 CFR 416.945;
2. age, education, and work experience, 20 CFR 416.963-965; and
3. the kinds of work which exist in significant numbers in the national economy which the Claimant could perform despite her limitations. 20 CFR 416.966.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor. 20 CFR 416.967.

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 other sedentary criteria are met. 20 CFR 416.967(a).

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. 20 CFR 416.967(b).

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, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

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, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

In Step 5, an assessment of the individual's residual functional capacity 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 the time of hearing, the Claimant was 46 years old and, thus, considered to be a younger individual for MA-P purposes. The Claimant has a high school education with an Associate's degree in Business; however, most of her jobs have been unskilled to semi-skilled. Currently, the Claimant

has been restricted by her cardiologist, who has treated her for a year and is very familiar with her limitations such that she is restricted with respect to standing and walking less than 2 hours in an 8-hour workday, and sitting less than 6 hours in an 8-hour workday. The Claimant's pulmonologist even more severely restrict the Claimant's activity and capabilities. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to 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). 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 evaluations and medical opinions of a "treating" physician is "controlling" if it is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record. 20 CFR§ 404.1527(d)(2), Deference was given by the undersigned to objective medical testing and clinical observations of the Claimant's treating physician.

After a review of the entire record, including the Claimant's credible testimony and medical evidence presented, and the objective medical evidence provided by the Claimant's treating cardiologist who places the Claimant at less than sedentary activity level, it is determined that the total impact caused by the physical impairments suffered by the Claimant must be considered. In doing so, it is found that the combination of the Claimant's physical impairments have a major impact on her ability to perform even basic work activities. Accordingly, it is found that the Claimant is unable to perform the full range of activities for even sedentary work as defined in 20 CFR 416.967(a). After review of the entire record, and in consideration of the Claimant's age, education, work experience and residual functional capacity, it is found that the Claimant is disabled for purposes of the MA-P program at Step 5.

As the Claimant has been found disabled for MA-P the Claimant is therefore also found disabled for purposes of the SDA benefit program.

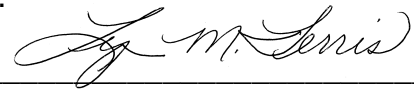
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of March 13, 2012.

Accordingly, the Department's decision is hereby REVERSED

THE DEPARTMENT IS ORDERED TO INITIATE 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. The Department is ORDERED to initiate a review of the application dated June 17, 2013 for MA-P and SDA if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall issue a supplement to the Claimant for SDA benefits the Claimant is otherwise eligible and entitled to receive in accordance with Department policy.
3. A review of this case shall be set for September 2015.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 23, 2014

Date Mailed: September 23, 2014

NOTICE OF APPEAL: The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Claimant;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the Claimant 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 the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-20610/LMF

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

LMF/tm

cc:

