

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-21248
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 28, 2014
County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 28, 2014, from Sterling Heights, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearing Facilitator, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) for the reason that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On [REDACTED], Claimant applied for MA and SDA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).

4. On [REDACTED], DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA and SDA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation and application of Medical-Vocational Rule 203.19.
7. On [REDACTED], an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A85; B1-B20; C1-C15; D1-D7; and E1-E3) at the hearing.
9. During the hearing, Claimant waived the right to receive a timely hearing decision.
10. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
11. On [REDACTED] 4, an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by State Hearing Review Team was subsequently issued which extended the record 90 days from the date of hearing.
12. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 202.11.
13. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
14. As of the date of the administrative hearing, Claimant was a 53 year old male with a height of 5'11" and weight of 261 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant's highest education year completed was the 10th grade.
17. As of the date of the administrative hearing, Claimant was an ongoing Healthy Michigan Plan recipient since [REDACTED], and Adult Medical Program recipient since approximately [REDACTED].

18. Claimant alleged disability based on impairments and issues including headaches, high blood pressure (HBP), depression, leg neuropathy, back pain, and restrictions related to a stroke.

CONCLUSIONS OF LAW

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

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant noted special arrangements in order to participate in the hearing. Claimant testified that at the time of the request, he had a recent stroke and was unsure if he could attend the hearing. Claimant stated that he was able to attend the hearing and required no special arrangements.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies:

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

BEM 260 (7/2012) pp. 1-2

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing

a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 (7/2012), p. 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

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

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

Claimant credibly denied performing any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Based on the presented evidence, it is found that Claimant is not performing SGA and has not performed SGA since the date of MA application. Accordingly, the disability analysis may proceed to step two.

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

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

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

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

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

The analysis will begin with a summary of the relevant submitted medical documentation. Psychological treatment documents will first be evaluated.

Initial intake documents (Exhibits 107-124) dated [REDACTED] were presented. The documents came from a treating mental health agency. It was noted that Claimant complained of various physical problems and feelings of hopelessness, stressors, and loss of sleep. An LLPC noted that Claimant's GAF was 45.

Various psychological treatment documents (Exhibits 30-37; 63-71; 129-137) dated [REDACTED] were presented. It was noted that Claimant takes short walks and sees his grandchildren weekly.

A Psychiatric Evaluation (Exhibits 99-105) dated [REDACTED] was presented. The evaluation was noted as completed by a staff person from a newly treating mental health agency. The qualification of the staff member was not noted but the staff was identified as a psychiatrist elsewhere (see Exhibit 127). It was noted that Claimant felt depression since his parents died in [REDACTED] the loss of his job, and the loss of his home. It was noted that Claimant lost his job after a fight with his supervisor (Claimant testified that he was fired for being physically unable to perform his job). Noted observations included the following: cooperative attitude, normal thought content, normal psychomotor activity, adequate attention, normal speech, average grooming, adequate judgment, and orientation x4. Axis I diagnoses of adjustment and depressive disorder were noted. Claimant's GAF was noted to be 55.

A Medical Examination Report (Exhibits 6-8) dated [REDACTED] was presented. The form was completed by an internal medicine physician with an unspecified history of treating Claimant. A diagnosis for depression was noted. The physician noted that Claimant was under stress due to lost family members. An unspecified restriction of sustaining concentration was noted.

A Psychiatric Psychological Examination Report (Exhibits 14-16) dated [REDACTED] was presented. The form was completed by a social worker with an approximate 2 week history with Claimant. It was noted that Claimant became depressed in [REDACTED] after losing his employment. Noted observations of Claimant included the following: orientation x3. Logical, coherent, poor short-term and long-term memory, and good judgment. Axis I diagnoses included adjustment disorder and depressive disorder. Claimant's GAF was noted to be 55.

A Medical Source Statement (Exhibits 125-127; E1-E3) dated [REDACTED] was presented. The statement was completed by a treating psychiatrist. It was noted that Claimant had marked restrictions in carrying out complex instructions and making complex work-related decisions. Claimant was noted as having moderate restrictions in making judgments for simple work-related decisions and understanding complex instructions. Claimant had mild restrictions in remembering and carrying out simple instructions and various social-related abilities.

Claimant alleged disability, in part, due to depression symptoms. Presented documents verified that Claimant only attended four psychological sessions. It appears that Claimant had access to therapy but did not bother to attend. Claimant stated that he stopped attending therapy because he could not drive. Claimant found a way to see his medical physician over the same period. Presumably, any psychological restrictions that Claimant had were temporary and did or would have resolved if Claimant was therapy compliant.

The evidence also suggested that Claimant's low psychological functioning may have been caused by cocaine abuse which was noted to have occurred three times in the 30 days before [REDACTED] (see Exhibit 116). Claimant was noted as an active alcohol, cocaine, and cannabis user as of [REDACTED] (see Exhibit 122). It is reasonable to expect improvement in Claimant's mental health as more time passed from his drug use.

It is found that Claimant failed to establish a severe psychological impairment where drug use and/or treatment compliance were immaterial. The analysis will proceed to evaluate Claimant's physical impairments.

Hospital documents (Exhibits B1-B20) dated [REDACTED] and [REDACTED] were presented. It was noted that Claimant presented after he was found to be hyperglycemic at 439. It was noted that Claimant was positive for cocaine use. It was noted that Claimant was given diabetes instructions.

Various medical clinic documents (Exhibits 48-58) were presented. The documents verified six appointments ranging in date from [REDACTED] to [REDACTED]. The documents verify treatment for diabetes, obesity, and psychosexual dysfunction.

A medical center document (Exhibit 76) dated [REDACTED] was presented. It was noted that Claimant complained of bilateral leg pain and swelling.

Progress Notes (Exhibits 77-79) dated [REDACTED] from a treating physician were presented. It was noted that Claimant complained of numbness, vertigo and weakness. Assessments of neuropathy, HTN, DM, and obesity were noted. A plan to prescribe Neurontin and better control blood pressure and blood sugar was noted.

Various prescription labels (Exhibits 85-98) from [REDACTED] and [REDACTED] were presented. Noted prescriptions included the following: losartan, aspirin, metoprolol, vitamin D2, nifedipine, clotrimazole cream, metformin, gemfibrozil, simvastatin, levemir, novolog, gabapentin, insulin, and Cymbalta.

Progress Notes (Exhibits 72-75) dated [REDACTED] from a treating physician were presented. It was noted that Claimant complained of back pain and burning foot pain. Presumably, lab results (Exhibits 80-82) dated [REDACTED] were discussed though such a discussion did not appear to be noted.

Progress Notes (Exhibits 27-28) dated [REDACTED] from treating physician were presented. It was noted that Claimant underwent an EMG nerve conduction study; it was noted that Claimant had mild diabetic neuropathy. It was noted that an x-ray showed degenerative changes and facet arthropathy in Claimant's lumbar. Claimant's medical history noted a laminectomy at L5-S1. Noted medications included the following: acetaminophen, gabapentin, Glucophage, insulin, Zocor, and several others. Lower lumbar tenderness upon extension was noted. A positive straight leg raising test was noted. It was noted that Claimant had 5/5 muscle strength in his legs. A one month follow-up was noted.

Various prescription labels from [REDACTED] were presented. Prescriptions included Ketoconazole cream, Desonide cream, Cymbalta, azithromycin, Losartan, and Metroprolol.

A Medical Examination Report (Exhibits 9-11) dated [REDACTED] was presented. The form was completed by a physician with no treatment history with Claimant. A diagnosis of infected organoid nevus was noted.

Hospital discharge instructions (Exhibits C9-C15) from an encounter dated [REDACTED] were presented. A primary problem of cerebrovascular accident was noted.

Various physician treatment documents (Exhibits A1-A30) were presented. The documents ranged in date from [REDACTED] to [REDACTED]. On [REDACTED] following a CT of Claimant's brain, an impression of evolving infarct was noted. On [REDACTED], following a CT of Claimant's head, probable ischemic changes were noted.

Hospital documents (Exhibits A57-A71; C4-C8) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with left-side pain and slurred speech. It was noted that Claimant's diabetes was not well controlled. It was noted that a total complete occlusion of the carotid artery was discovered in a prior admission. An impression of evolving CVA was noted. A discharge diagnosis of left-sided numbness was noted.

Hospital documents (Exhibits A31-A43 C1-C3) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with left-side pain. A primary problem of nephrolithiasis on the left was noted. It was noted that Claimant underwent a cystoscopy and stint. Various discharge medications were noted. A discharge date of [REDACTED] was noted.

Physical therapy documents (Exhibits A72-A77) dated [REDACTED] were presented. It was noted that Claimant's left side all had normal ranges of motion. An assessment noted decreased strength in upper and lower musculature. Difficulty with walking was noted. Decreased balance was noted.

Claimant testified that he had standing and ambulation restrictions. Claimant's testimony was consistent with presented records.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. Accordingly, Claimant established having a severe impairment and the disability analysis may move to step three.

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

Claimant's most prominent impairment appears to be left-side dysfunction related to a stroke. Listing 11.04 covers vascular accidents and reads:

11.04 Central nervous system vascular accident.

With one of the following more than 3 months post-vascular accident

- A. Sensory or motor aphasia resulting in ineffective speech or communication; or
- B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C).

Claimant's testimony conceded that Claimant does not require use of a cane. There was some evidence of lifting restrictions, but not enough to justify a finding that Claimant has significant and persistent motor function disorganization. It is found that Claimant does not meet the listing for stroke.

Listings for depression (Listing 12.04), peripheral neuropathies (Listing 11.14), and spinal disorders (Listing 1.04) were each considered. The listings were rejected due to unresponsive evidence.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant's self-reported work history (Exhibits 138-145) was presented. Claimant noted that he last worked in [REDACTED] as a tool rental representative. Claimant also listed that he worked for approximately two years as a repairperson. Claimant testified that he also performed work as a landscaper and as an assembler. Claimant testified that all of his past jobs required more ambulation and lifting than he can currently perform. Claimant's testimony was consistent with the presented evidence. It is found that Claimant is unable to perform past relevant employment and the analysis may proceed to step five.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

The most compelling evidence of restrictions appears to be related to a stroke that Claimant suffered in [REDACTED]. Claimant presented direct evidence of his post-stroke abilities.

A Medical Source Statement of Ability To Do Work-Related Activities (Physical) (Exhibits D1-D7) dated [REDACTED]. The document was completed by a physician with an unknown history of treating Claimant. It was noted that Claimant could occasionally lift 1-2 pounds with his right arm, but never more weight. It was noted that Claimant could not lift any amount of weight with his left hand. It was opined that Claimant could sit or stand, each for less than 1 hour at a time, and could walk for 5-10 minutes at a time. It was opined that within an 8 hour workday, Claimant could sit or stand, each for less than 1 hour, and could walk for 5 minutes. It was noted that Claimant did not require a cane for ambulation. The basis for support for restrictions was noted as CVA x2, leg and left arm pain, and hemiparesis. It was noted that Claimant was in physical and occupational therapy. It was noted that Claimant could frequently operate right foot controls, but never left controls. It was opined that Claimant could perform frequent handling with his right hand, but none with his left. It was noted that Claimant should never climb stairs, kneel, crouch, crawl, stoop or climb ladders.

Claimant's extremely light lifting restrictions, ambulation and sitting restrictions, need for therapy, and recurring headaches, are compelling restrictions. At most, Claimant is restricted to performing sedentary employment after suffering a stroke. A separate analysis must consider Claimant's restrictions for the period of [REDACTED] - [REDACTED].

A Medical Examination Report (Exhibits 6-8) dated [REDACTED] was presented. The form was completed by an internal medicine physician with an unspecified history of treating Claimant. The physician name matched the physician who treated Claimant on [REDACTED].

The physician provided diagnoses of HTN, hyperlipidemia, chronic back pain, arthritis, depression, and peripheral neuropathy. A physical examination noted 1+ bilateral leg edema. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs. It was noted that Claimant could not perform repetitive reaching or fine manipulation with either arm. Sitting restrictions were not noted. The physician opined that Claimant was restricted to less than 2 hours of standing and/or walking, per 8 hour workday. It was noted that Claimant could not operate leg or foot controls.

Claimant's physician opined that Claimant was restricted to occasional lifting of up to 20 pounds and frequent lifting of less than 10 pounds. This restriction is consistent with an ability to perform the lifting required of light employment.

A restriction of standing and/or walking less than 2 hours per 8 hour workday is compelling evidence of an inability to perform light employment. It was established that Claimant had mild neuropathy. Complaints of back pain, a history of back surgery, and abnormal spinal radiography were also verified. The presented evidence sufficiently supported the standing/walking restrictions cited by Claimant's physician. It is found that Claimant was restricted to performing sedentary employment for the period of [REDACTED].

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

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1.

A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or

- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
Id.

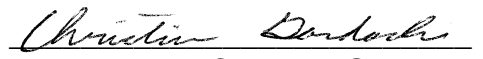
It has already been found that Claimant is disabled for purposes of MA benefits based on application of Medical Vocational Rule 201.14. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly denied Claimant's application for SDA benefits.

DECISION AND ORDER

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

- (1) reinstate Claimant's MA and SDA benefit application dated [REDACTED];
- (2) evaluate Claimant's eligibility for MA and SDA benefits subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/24/2014

Date Mailed: 7/24/2014

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 client;
- 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

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

CG/hw

cc:

