

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2723
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: Wayne (12)

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 March 26, 2014, from Ypsilanti, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's eligibility 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 SDA and MA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On an unspecified date, DHS approved Claimant's application and Claimant began receiving MA and SDA benefits.
4. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2)

5. On [REDACTED] DHS terminated Claimant's eligibility for MA and SDA benefits, effective [REDACTED], and mailed a Notice of Case Action informing Claimant of the termination.
6. On [REDACTED] 3, Claimant requested a hearing disputing the termination of MA and SDA benefits.
7. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.20.
8. On [REDACTED] an administrative hearing was held.
9. Claimant presented new medical documents (Exhibits A1-A80) at the hearing.
10. During the hearing, Claimant waived the right to receive a timely hearing decision.
11. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
12. On [REDACTED], 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.
13. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 202.20.
14. On [REDACTED] 4, the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
15. As of the date of the administrative hearing, Claimant was a 33-year-old male with a height of 6'2" and weight of 215 pounds.
16. Claimant has no known relevant history of alcohol or illegal substance abuse.
17. Claimant's highest education year completed was the 12th grade.
18. As of the date of the administrative hearing, Claimant received county-issued health insurance.
19. Claimant alleged disability based on impairments of testicular pain and chronic headaches.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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).

The analysis of Claimant's MA benefit eligibility depends on whether Claimant was an applicant or an ongoing recipient. Once an individual has been found disabled for purposes of MA benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994.

It was not disputed that Claimant was an ongoing MA and SDA benefit recipient. DHS presented testimony that Claimant's eligibility was wrongly approved and that Claimant was never determined to be a disabled individual. The DHS testimony does not alter the fact that Claimant was an ongoing benefit recipient. Accordingly, a redetermination disability analysis is proper.

In evaluating a claim for ongoing MA benefits, federal regulations require a sequential evaluation process be utilized. 20 CFR 416.994(b)(5). The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. *Id.* Prior to deciding if an individual's disability has ended, the department will develop, along with the Claimant's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

The first step in the analysis in determining the status of a claimant's disability requires the trier of fact to consider the severity of the impairment(s) and whether it meets or equals a listed impairment in Appendix 1 of subpart P of part 404 of Chapter 20. 20 CFR 416.994(b)(5)(i). If a listing is met, an individual's disability is found to continue and no further analysis is required. This consideration requires a summary and analysis of presented medical documents.

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 Claimant's testimony and relevant submitted medical documentation.

Claimant testified that as a child, he was in a bicycle accident. Claimant testified that the accident caused a testicle injury which later resolved. Claimant testified in 2003, he began suffering severe pain from his testicles. Claimant testified that the pain is debilitating. Claimant testified that he has seen numerous physicians and he gets little-to-no relief from any treatment or prescriptions.

Various hospital documents (Exhibits 242-341) from ██████████ were presented. The documents verified Claimant complaints of finger lacerations, coughing, and vomiting.

Various treatment documents and bills (Exhibits A5-A69) from ██████████ were presented. The documents verified ongoing treatment for testicular pain.

Hospital documents (Exhibits 183-240) from an encounter dated ██████████ were presented. It was noted that Claimant presented with complaints of lower abdominal pain (pain level of 6-8/10). It was noted that Claimant has chronic groin pain and that Claimant uses Vicodin and marijuana to treat pain. It was noted that Claimant recently tried cutting his pain medications in half. It was noted that chest x-rays showed some abnormalities. A follow-up chest x-ray was scheduled in 1 week. A diagnosis of lung nodule was noted.

Hospital documents (Exhibits 132-182) from an encounter dated ██████████ were presented. It was noted that Claimant presented with complaints of vomiting, diarrhea, ongoing for 2 weeks. It was noted that Claimant took Vicodin daily for chronic neuropathic groin pain. It was noted that Claimant drank alcohol 2 days ago and has home stressors. It was noted that Claimant was not suicidal. It was noted that Claimant received various medications and was discharged.

Medical clinic documents (Exhibits A8-A10) dated ██████████ were presented. It was noted that Claimant presented for chronic nausea. It was noted that Claimant lost 15 pounds over the past few weeks. It was noted that Claimant cannot hold a job because chronic pain often causes him to miss work.. A plan to increase Zantac was noted. A referral to a gastroenterologist was noted.

University medical clinic documents (Exhibits A1-A4) dated ██████████ were presented. It was noted that Claimant presented with complaints of chronic pelvic pain. A recommendation of Oxycodone to treat pain was noted.

Hospital documents (Exhibits 99-131) from an encounter dated ██████████ were presented. It was noted that Claimant presented with complaints of abdominal and severe radiating

testicular pain, ongoing for one week. It was noted that Claimant usually takes Vicodin for the pain, but the pain reliever has not reduced his pain. It was noted that Claimant's testes appeared normal. It was noted that Claimant's labs were normal. It was noted that Claimant's pain improved at reevaluation. It was noted that Claimant was given Percocet upon discharge.

A Medical Examination Report (Exhibits 5-7) dated 2/18/13 was presented. The form's author was a physician who noted no previous history of treating Claimant. Diagnoses of chronic pelvic pain, depression, anxiety, and bilateral knee pain were noted. An impression was given that Claimant's condition was deteriorating. It was noted that Claimant could frequently lift 10 pounds, but never more than 25 pounds. It was noted that Claimant was restricted to standing/walking of less than 2 hours per 8 hour workday. Sitting restrictions of less than 6 hours per 8 hour workday were noted. It was noted that Claimant can meet household needs. It was noted that Claimant's depression and anxiety were poorly controlled.

A physical examination report (Exhibits 342-345; 356-359; A71-A74) dated [REDACTED] was presented. The report was completed by a consultative physician. It was noted that Claimant reported chronic testicular and left knee pain. Reported medications included: Xanax (1-2/day), Vicodin 750mg (1-3/day), Zantac, and Cialis. Ranges of motion were noted as restricted in Claimant's lumbar and left knee. It was noted that Claimant's testicles were not examined.

A mental examination report (Exhibits 347-350; 352-355; A76-A79) dated [REDACTED] was presented. The report was completed by a consultative licensed psychologist. It was noted that Claimant reported chronic testicular pain. The examiner noted that Claimant grimaced and shifted positions often. Noted examiner observation of Claimant included the following: adequate contact with reality, spontaneous, reduced self-esteem, adequate impulse control, articulate speech, sustained concentration, dysphoric mood, and focused concentration. An Axis I diagnosis of depression history, related to testicular pain, was noted. Claimant's GAF was note to be 55. It was noted that Claimant's ability to withstand stress was greatly compromised.

Hospital documents (Exhibits 55-98) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of vomiting, cough with bloody sputum, and chest pain. It was noted that Claimant was trying to wean himself off of pain medications and Xanax. It was noted that Claimant was an active smoker. It was noted that chest x-rays were unremarkable. An impression of bronchitis was noted. It was noted that Claimant was given azithromycin and that his pain diminished.

Hospital documents (Exhibits 22-54) from an encounter dated [REDACTED] were presented. It was noted that Claimant reported headaches (pain level of 10/10) and groin pain. It was noted that Claimant reported not taking pain medication for 2 months, though it was noted that Claimant had multiple prescriptions refilled in last 2 months. It was noted that Claimant reported that sinus medications did not alleviate pain. It was noted that a CT of Claimant's head demonstrated no acute intracranial abnormality. It was noted that

Claimant was given pain medication and that his pain reduced to a 5. It was noted that Claimant left against medical advice.

Claimant's basis for disability was testicular pain. SSA does not have a listing for testicular pain.

Listings for depression (12.04), anxiety (12.06), knee pain (1.02) were considered. The listings were each rejected. Accordingly, the analysis may proceed to step two.

The second step of the analysis considers whether medical improvement occurred. CFR 416.994(b)(5)(ii). Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most favorable medical decision that the individual was disabled or continues to be disabled. 20 CFR 416.994(b)(1)(i).

DHS presented no evidence of medical improvement. Step three of the analysis is applicable only if medical improvement is found. Thus, the analysis may skip to step four.

Step four considers whether any exceptions apply to a previous finding that no medical improvement occurred or that the improvement did not relate to an increase in RFC. 20 CFR 416.994(b)(5)(iv). If medical improvement related to the ability to work has not occurred and no exception applies, then benefits will continue. CFR 416.994(b). Step four lists two sets of exceptions.

The first group of exceptions allow a finding that a claimant is not disabled even when medical improvement had not occurred. The exceptions are:

- (i) Substantial evidence shows that the individual is the beneficiary of advances in medical or vocational therapy or technology (related to the ability to work);
 - (ii) Substantial evidence shows that the individual has undergone vocational therapy related to the ability to work;
 - (iii) Substantial evidence shows that based on new or improved diagnostic or evaluative techniques the impairment(s) is not as disabling as previously determined at the time of the most recent favorable decision;
 - (iv) Substantial evidence demonstrates that any prior disability decision was in error.
- 20 CFR 416.994(b)(4)

If an exception from the first group of exception applies, then the claimant is deemed not disabled if it is established that the claimant can engage in substantial gainful activity. If no exception applies, then the claimant's disability is established.

The second group of exceptions allow a finding that a claimant is not disabled irrespective of whether medical improvement occurred. The exceptions are:

- (i) A prior determination was fraudulently obtained;
- (ii) The individual failed to cooperate;
- (iii) The individual cannot be located;
- (iv) The prescribed treatment that was expected to restore the individual's ability to engage in substantial gainful activity was not followed.
20 CFR 416.994(b)(4)

DHS presented evidence that Claimant was mistakenly found to be disabled. The DHS testimony was credible as no evidence of an approved disability determination was presented. Accordingly, the analysis may proceed despite a lack of evidence to establish medical improvement.

Step five of the analysis considers whether all the current impairments in combination are severe. 20 CFR 416.994(b)(5)(v). When the evidence shows that all current impairments in combination do not significantly limit physical or mental abilities to do basic work activities, these impairments will not be considered severe and the claimant will not be considered disabled. *Id.* If the impairments are considered severe, the analysis moves to step six. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.921 (a). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921 (b). 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. (*Id.*)

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).

Claimant alleged that he is limited in walking, lifting, and standing due to pain. Claimant also alleged that he has psychiatric problems which restrict his ability to withstand stress and concentration difficulties. Claimant's testimony was credible and consistent with presented medical evidence.

Claimant's restrictions were established to have begun at least since [REDACTED], the date of Claimant's SDA application. The impairments are also established to have been ongoing at least for 12 months. It is found that Claimant has severe impairments since [REDACTED] and the analysis may proceed to step six.

The sixth step in analyzing a disability claim requires an assessment of the Claimant's RFC and past relevant employment. 20 CFR 416.994(b)(5)(vi). 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 testified that he performed past employment involving maintenance work, painting, and lawn care. Claimant testified that he quit his last job due to chronic pain. Claimant testified that he cannot muster the sustained concentration to perform his past jobs. Claimant also testified that he cannot sustain the standing or sitting requirements of his past employment. Claimant's testimony was consistent with presented evidence. It is found that Claimant cannot perform past relevant employment and the analysis may proceed to step seven.

In the seventh 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.*

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).

Claimant contended that he cannot perform any job due to chronic pain. Generally, presented medical records were consistent with Claimant's testimony.

Claimant's work history (Exhibits 360-364) was presented. The history showed that Claimant's earnings averaged at least \$8,000/year from 2000 through 2007. Claimant also showed earnings from 2011 and 2012. Claimant testified that he quit his last job due to chronic pain. Claimant's work history was consistent with a person who wants to work. The work history was consistent with Claimant's allegation that pain prevents him from being employed.

Claimant testified that he has been seen by dozens of doctors, none of which have successfully resolved his chronic pain complaints. Claimant's testimony was consistent with presented records which verified treatment from numerous doctors, none of which significantly resolved Claimant's complaints. Though Claimant's pain has not been successfully diagnosed, the doctors did not appear to doubt Claimant's complaints. Several treating doctors recommended high levels of pain medication. An examining psychologist noted "there was no doubting the ongoing pain" that Claimant was in (see Exhibit 347). Overall, the evidence was supportive of finding that Claimant's pain was severe and genuine.

Specific restrictions were also verified. A list of Claimant's restrictions (Exhibit A80) dated [REDACTED] was presented. The list was completed by a treating physician with an unspecified history of treating Claimant. It was noted that Claimant was restricted to performing 2 hours per day of work; similar sitting restrictions were noted. It was noted that Claimant had a 5 block walking restriction and 30 minute sitting restriction. It was noted that Claimant could not perform sedentary employment. An inability to stand and walk for 8 hours is consistent with an inability to perform any employment. The restrictions were consistent with Claimant's testimony that he has to lay down with his legs elevated in order to reduce his pain.

Based on the presented evidence, it is found that Claimant cannot perform any type of employment. Accordingly, it is found that Claimant is disabled and that DHS improperly terminated Claimant's MA eligibility.

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.*

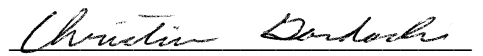
It has already been found that Claimant is disabled for purposes of MA benefits based on a finding that Claimant's is unable to perform any employment due to chronic pain. The analysis and finding applies equally for Claimant's SDA eligibility. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly terminated Claimant's eligibility.

DECISION AND ORDER

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

- (1) reinstate Claimant's MA and SDA eligibility, effective [REDACTED];
- (2) evaluate Claimant's eligibility for MA and SDA, 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: 6/24/2014

Date Mailed: 6/24/2014

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:

