

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-33428  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: May 7, 2014  
County: Wayne (43)

**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 7, 2014, from Highland Park, 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], Specialist.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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, including retroactive MA benefits from [REDACTED].
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 5; 15-16).

4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 2-4) informing Claimant of the denial.
5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], an administrative hearing was held.
7. Claimant presented new medical documents (Exhibits A1-A15; B1-B4; C1-C3) at the hearing.
8. During the hearing, Claimant waived the right to receive a timely hearing decision.
9. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
10. 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.
11. On [REDACTED], SHRT determined that Claimant was not a disabled individual (see Exhibit 2-24), in part, by reliance on a Disability Determination Explanation (Exhibits 2-1 – 2-11) and application of Medical-Vocational Rule 202.13.
12. On [REDACTED], SHRT determined that Claimant was not a disabled individual (see Exhibits 2-25 – 2-26), in part, by application of Medical-Vocational Rule 202.13.
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 52 year old male with a height of 5'9" and weight of 160-165 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant completed the 12<sup>th</sup> grade, via general equivalency degree.
17. As of the date of the administrative hearing, Claimant was an ongoing Healthy Michigan Plan recipient as of [REDACTED].
18. Claimant alleged disability based on impairments and issues including memory lapses, anxiety, difficulty with grasping items, joint pain, and spondylosis of the neck.

### **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).

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.*, p. 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.*, p 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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> 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 (1<sup>st</sup> 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 (1<sup>st</sup> 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.

A Radiology Report (Exhibit A11) dated [REDACTED] was presented. It was noted that views were taken of Claimant's lumbar and cervical spine. An impression of mild degenerative changes with anterior spondylosis in Claimant's lumbar spine was noted. An impression of multilevel degenerative changes, spondylosis, arthritis, and joint space narrowing were noted at C5-C6 and C6-C7.

MDOC treatment documents (Exhibits A1-A4) dated [REDACTED] were presented. It was noted that Claimant's chronic problems included cervical disc disorder, reflux, and hyperlipidemia. Diagnoses of cervical and lumbosacral spondylosis were noted; a plan to take NSAIDs for relief was noted. It was noted that Claimant could perform ADLs without excessive difficulty. Axis I diagnoses of unspecified adjustment disorder, delusional disorder, and polysubstance disorder were noted.

An MDOC special needs identification screening (Exhibits A5) dated [REDACTED] was presented. It was noted that Claimant had the following special needs: glasses, brace, and upper partial dentures.

An Initial Psychiatric Evaluation (Exhibits 9-11) dated [REDACTED] was presented. The evaluation was authored by a psychiatrist from a treating mental health agency. It was noted that Claimant reported the following problems: feeling sad, depressed, anxiety, difficulty sleeping, helplessness, hopelessness, fearfulness, concentration difficulties, irritability, and frustration. It was noted that Claimant remained isolative after a recent release from prison. It was noted that Claimant reported hearing hallucinations. Noted observations of Claimant included the following: orientation x3, normal motor activity, anxious affect, spontaneous and normal speech, paranoid thoughts, average intelligence, and intact memory. An Axis I diagnosis of major depressive disorder, recurrent, severe and with psychotic features, was noted. Claimant's GAF was noted to be 50.

A Medical Examination Report (Exhibits 22-24; 28-30) dated [REDACTED] was presented. The form was authored by a treating physician with an unspecified history of treating Claimant. It was noted that x-rays confirmed a spondylosis diagnosis. Diagnoses of dyslipidemia and GERD were also noted. A physical examination noted the following: mild bilateral grip weakness, intact gross motor and senses. An unspecified reduced range of motion was noted. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs.

Physician progress notes (Exhibits 31-35) were presented. On [REDACTED], it was noted that Claimant reported depression, neck pain, and lumbar pain. Assessments of osteoarthritis of the vertebral column and delusional disorder were noted. On [REDACTED], it was noted that Claimant wanted to see a psychiatrist. On [REDACTED], it was noted that Claimant should continue to take Mobic and simvastatin.

An internal medicine report (Exhibits 2-16 – 2-24) dated [REDACTED] was presented. The report was completed by a consultative examiner with no history of treating Claimant. It was noted that Claimant wore a right knee brace and had tenderness in his knee. It was noted that Claimant could slowly perform tandem walk, heel walk, and tow walk. All tested ranges of motion were noted as normal other than lumbar flexion and hip forward flexion. It was noted that Claimant could perform the following listed activities with pain: sitting, standing, carrying, pushing, pilling, bending, and stooping. An impression of a need for long-term mental health care was noted. It was noted that Claimant should avoid toxins, smoke and fumes. It was noted that Claimant would struggle with repetitive lifting, bending, pushing and pulling.

Claimant alleged that he had psychiatric and physical problems which would impact his ability to perform and maintain employment. Claimant's testimony was consistent with presented documents. Presented records verified that Claimant has physical and psychological problems since at least [REDACTED]. It was also verified that Claimant's impairments are expected to last for 12 months or longer. 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 anxiety related to his long-term incarceration. Anxiety is a symptom of anxiety disorders which are covered by Listing 12.06 which reads:

**12.06 Anxiety-related disorders:** In these disorders anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders.

The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in both A and C are satisfied.

A. Medically documented findings of at least one of the following:

1. Generalized persistent anxiety accompanied by three out of four of the following signs or symptoms:

- a. Motor tension; or
- b. Autonomic hyperactivity; or
- c. Apprehensive expectation; or
- d. Vigilance and scanning; or

2. A persistent irrational fear of a specific object, activity, or situation which results in a compelling desire to avoid the dreaded object, activity, or situation; or

3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week; or

4. Recurrent obsessions or compulsions which are a source of marked distress; or

5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress;

AND

B. Resulting in at least two of the following:

- 1. Marked restriction of activities of daily living; or
- 2. Marked difficulties in maintaining social functioning; or
- 3. Marked difficulties in maintaining concentration, persistence, or pace; or
- 4. Repeated episodes of decompensation, each of extended duration.

OR

C. Resulting in complete inability to function independently outside the area of one's home.

A Medical Source Statement of Ability to Do Work-Related Activities (Mental) dated [REDACTED] was presented. The document was completed by a social worker with an unknown history of treating Claimant. The social worker opined that Claimant had “marked” or “extreme” restrictions in all listed activities. Listed activities included the following: understanding and remembering simple instructions, making simple work-related decisions, carrying out simple instructions, interacting with the public, responding appropriately to usual work changes and situations, and interacting with coworkers.

The medical source statement was highly unpersuasive. First, it was completed by a non-medical source with no specified relationship to Claimant. Secondly, it was noted that Claimant’s restrictions were based on psychiatric evaluation; the psychiatric evaluation to support the findings was not presented. Presented evidence did not support the document’s findings.

A Mental Residual Functional Capacity Assessment (Exhibits 20-21) dated [REDACTED] was presented. The form was completed by a person with unknown credentials from Claimant’s treating mental health agency. This form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. Claimant was found markedly limited in all 20 listed work-related abilities.

The MRFCA was also unpersuasive. The MRFCA author is completely unknown; thus, the reliance of its source cannot be gauged. Also, it is difficult to accept that Claimant is markedly restricted in 20 work-related abilities when no other evidence is suggestive of such restrictions. Examples of evidence suggesting that Claimant has marked restrictions would include psychiatric hospitalizations, Claimant’s reliance on others, or descriptions of Claimant’s disturbing behaviors. Presented documents failed to cite any notable examples of marked restrictions.

It is found that Claimant does not have marked restrictions in concentration, daily activities, or social interactions. There was no evidence of periods of decompensation. The evidence was also not supportive in finding that Claimant has the inability to function outside of his home.

A listing for spinal disorders (Listing 1.04) was considered based on diagnoses of spondylosis. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a

marginal adjustment so that even a slight increase in mental demands would cause decompensation.

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.

It was not disputed that Claimant was in prison for the past 27 years and has no past relevant employment. Without past relevant employment, it can only be determined that Claimant cannot return to 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).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform light employment. Social Security Rule 83-10

states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Claimant's physician provided several statements concerning Claimant's abilities (see Exhibit 23). Claimant's physician opined that Claimant was restricted to occasional lifting of 10 pounds and no lifting of 20 pounds or more. Claimant's physician opined that Claimant could stand/walk less than 2 hours per 8 hour workday. Claimant's physician opined that Claimant was restricted to less than 6 hours of sitting per 8 hour workday. Claimant's physician opined that Claimant was restricted from performing any repetitive arm motions. Claimant's physician noted that Claimant could perform repetitive leg/foot controls. It was noted that Claimant had the following mental restrictions: comprehension, memory, sustained concentration, following simple directions, and social interactions.

Claimant's physician's stated restrictions were consistent with other presented evidence. An inability to stand for two hours and sit for six hours is consistent with an inability to perform any employment. Other restrictions were consistent with an inability to perform light employment.

A Physical Residual Functional Capacity Questionnaire (Exhibits B1-B4) dated [REDACTED] was presented. The form was noted as completed by a physician based on an approximate four month treatment history. Diagnoses of spondylosis, GERD, and dyslipidemia were noted. Claimant's pain level was noted as 10/10. Decreased range of motion and mild weakness was noted. It was noted that Claimant had depression, was delusional, and could not tolerate even low-stress jobs. It was noted that Claimant could walk one block without rest or severe pain. It was noted that Claimant was restricted to sitting periods of five minutes and standing periods of 10 minutes. It was noted that Claimant was restricted to standing and sitting, each for four hours within an eight hour workday. It was noted that Claimant did not require use of a cane. It was noted that Claimant was restricted to occasional lifting of 10 pounds and rare lifting of 20 pounds. It was estimated that Claimant would miss four days of work per month, due to impairments.

The stated restrictions were consistent with an inability to perform light employment. It is found that Claimant is restricted to performing sedentary employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school equivalency), employment history (none), Medical-Vocational Rule 201.12 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 201.12. 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], including retroactive MA benefits from [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: 7/17/2014

Date Mailed: 7/18/2014

**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:

