

4. SHRT denied Claimant's request.
5. Claimant is 42 years old.
6. Claimant completed education through a GED.
7. Claimant has employment experience (last worked 2001) as a general laborer which required him to stand/walk the entire shift and lift 25-30 pounds. He also worked as a stock person which required him to stand/walk the entire shift and lift 30-50 pounds.
8. Claimant's limitations have lasted for 12 months or more.
9. Claimant suffers from cervical myelopathy.
10. Claimant has significant limitations on physical activities involving sitting, standing, walking, bending, lifting, and stooping.

CONCLUSIONS OF LAW

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

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

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under MA-P. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work

experience are reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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

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

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

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

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

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

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

Secondly, the individual must have a medically determinable impairment that is "severe" or a combination of impairments that is "severe." 20 CFR 404.1520(c). An impairment or combination of impairments is "severe" within the meaning of regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence

establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work. 20 CFR 404.1521; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p. If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

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

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

The fourth step of the process is whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. 20 CFR 404.1520(f). The term past relevant work means work performed (either as the claimant actually performed it or as is it generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. If the claimant has the residual functional capacity to do his/her past relevant work, then the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth step.

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

Here, Claimant has satisfied requirements as set forth in steps one, two and three of the sequential evaluation. However, Claimant's impairments do not meet a listing as set forth in Appendix 1, 20 CFR 416.926. Therefore, vocational factors will be considered to determine Claimant's residual functional capacity to do relevant work.

In the present case, Claimant has been diagnosed with cervical myelopathy. Claimant has a number of symptoms and limitations, as cited above, as a result of these conditions. Claimant's medical records included the following:

██████████ Claimant was admitted to the hospital due to cervical problems. The hospital records indicate that Claimant underwent an MRI ██████████ which revealed an indent on the thoracic spinal cord, L4-L5 mild disc bulge with a grade 1

spondylolisthesis and mild to moderate bilateral neural foraminal narrowing at L2-L3, L3-L4, mild bilateral neural foraminal narrowing due to the disk bulging. Claimant reported increasing pain and troubles with falling. [REDACTED] an MRI revealed disk herniation at C3-4, C4-5 and C5-6. [REDACTED] Claimant underwent a cervical discectomy. Claimant underwent an irrigation and evacuation of retro-esophageal hematoma [REDACTED] due to complications from the prior procedure. Claimant was in the hospital until [REDACTED]

[REDACTED] Claimant was examined. Claimant appeared to be in no acute distress. He had full range of motion of the neck. He had a normal examination of the spine with no tenderness to palpation. His musculoskeletal examination was normal. His neurological examination was nonfocal. Strength was normal in the upper and lower extremities. Sensory functions were intact. He had normal strength and tone. Reflexes were increased in the upper and lower extremities.

A progress note dated [REDACTED] showed Claimant had tenderness to palpation over lumbar-sacral spine.

Claimant testified to the following symptoms and abilities: lower back pain feels like a needle being entered in and out of his spine when he moves or walks, can walk a block or two, can stand 10-15 minutes, can sit an hour or so, after sitting his legs feel weak, his legs have given out a couple times, stiffness in his hands and he drops things, limited ability to bend due to pain, not sure about being able to squat, limited ability to perform chores, not able to manage his own grocery shopping, he is able to manage personal care, not able to drive, doesn't believe he could perform any work on a sustained basis, able to read, write and perform basic math and his pain radiates at times to his neck from his back pain.

Claimant's medical records document that Claimant, [REDACTED], suffered with pain and tenderness in his back and cervical spine region. These records indicate the condition worsened and resulted in surgery [REDACTED] Claimant underwent two procedures due to problems associated with the original procedure. Claimant's representative submitted the medical records detailed above. Claimant's condition began prior to the date of surgery and, based upon the [REDACTED], Claimant's condition grew more restrictive with time. Claimant's medical records show, however, that Claimant had improvement following surgery. This improvement is illustrated by the [REDACTED] examination.

When reviewing the medical evidence submitted, this Administrative Law Judge can safely conclude that Claimant's condition was limiting for 12 months or more. This medical evidence further demonstrates his condition did improve following his procedure. Claimant's testimony is found only partially credible when examining the evidence. Claimant's testimony regarding his physical limitations prior [REDACTED] is supported by the medical evidence. Claimant underwent a significant surgical procedure as well as a secondary surgery due to complications from the first. Claimant had been dealing with pain and restrictions on his ability to move since [REDACTED].

However, Claimant's condition would be expected to improve following these procedures and, while the healing process may take time, by the [REDACTED] examination, Claimant's restrictions on physical movement was reported to have dramatically improved.

This Administrative Law Judge finds that Claimant's alleged continued restriction on movement as of May 19, 2014, the date of the hearing, to be less than credible. Claimant's medical record fails to support the drastic restriction in movement and the other physical limitations Claimant would have this Administrative Law Judge believe he continues to be subject to.

The fourth step of the analysis to be considered is whether the claimant has the ability to perform work previously performed by the claimant within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the claimant from doing past relevant work. In the present case, Claimant's past employment was as a general laborer which required him to stand/walk the entire shift and lift 25-30 pounds. He also worked as a stock person, which required him to stand/walk the entire shift and lift 30-50 pounds. This Administrative Law Judge finds, based on the medical evidence and objective, physical, and psychological findings, that Claimant is not capable of the physical or mental activities required to perform any such position. 20 CFR 416.920(e).

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

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

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

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

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a

certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little; a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

See *Felton v DSS* 161 Mich App 690, 696 (1987). Once the claimant makes it to the final step of the analysis, the claimant has already established a *prima facie* case of disability. *Richardson v Secretary of Health and Human Services*, 732 F2d 962 (6th Cir, 1984). Moving forward, the burden of proof rests with the State to prove by substantial evidence that the claimant has the residual function capacity for SGA.

When considering Claimant's condition, this Administrative Law Judge finds Claimant's condition, which resulted in severe marked restriction on his basic activities, began shortly after [REDACTED]. Claimant's condition continued to be severely limiting until late [REDACTED]. After a careful review of Claimant's medical record and personal observation of Claimant at the hearing, this Administrative Law Judge finds that Claimant's exertional and non-exertional impairments rendered Claimant unable to engage in a full range of sedentary work activities on a regular and continuing basis for this particular timeframe [REDACTED]. 20 CFR 404, Subpart P, Appendix 11, Section 201.00(h). See Social Security Ruling 83-10; *Wilson v. Heckler*, 743 F2d 216 (1986).

The record supports a finding that Claimant did not have the residual functional capacity for SGA. The Department has failed to provide vocational evidence which establishes that, given Claimant's age, education, and work experience, there were significant numbers of jobs in the national economy which Claimant could perform despite

Claimant's limitations. Accordingly, this Administrative Law Judge concludes that Claimant was disabled for purposes of the MA program through April 2014.

Claimant's condition, as discussed above, did show an improvement as of his examination performed [REDACTED]. Claimant, while still showing some restriction and tenderness, did not have the degree of restriction previously indicated by his treatment records prior [REDACTED]. While Claimant alleged a greater degree of continued restriction, the medical evidence fails to support a finding that the restrictions continued to the degree attested by Claimant following [REDACTED].


Therefore, when considering Claimant's abilities from May 2014 ongoing, this Administrative Law Judge finds that Claimant has had significant medical improvement and has the residual functional capacity to perform work at least at a sedentary level.

Claimant is an individual of younger age. 20 CFR 416.963. Claimant has a high school equivalent education. 20 CFR 416.964. Claimant's previous work was unskilled. Federal Rule 20 CFR 404, Subpart P, Appendix 2, contains specific profiles for determining disability based on residual functional capacity and vocational profiles. Under Table I, Rule 201.27, Claimant is not disabled for purposes of the Medical Assistance program as of May 2014.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled from February 2013 through April 2014. The Claimant is found not medically disabled as of May 2014.

Accordingly, the Department's decision is hereby PARTIALLY REVERSED and the Department is ORDERED to initiate a review of the application dated April 9, 2014, if not done previously, to determine Claimant's non-medical eligibility. The Department shall inform Claimant of the determination in writing. A review of this case is not necessary as this decision has determined a closed period of eligibility from February 2013 through April 2014. The Claimant was found ineligible for disability based MA benefits as of May 2014.



Jonathan W. Owens
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: January 7, 2015

Date Mailed: January 7, 2015

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

JWO/pf

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