

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-018977
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: January 29, 2015
County: Wayne (15)

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, a telephone hearing was held on January 29, 2015, from Detroit, 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] Medical Contact Worker.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) eligibility 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 benefits, including retroactive MA benefits from 9/2013.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).
4. On [REDACTED], DHS denied Claimant's application for MA 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 benefits.
6. As of the date of the administrative hearing, Claimant was a 52 year old female.
7. Claimant has not earned substantial gainful activity since before the first month of benefits sought.
8. Claimant's highest education year completed was the 9th grade.
9. Claimant has a history of unskilled employment, with no known transferrable job skills.
10. Claimant alleged disability based on restrictions related to diagnoses of lower back pain, osteoarthritis of knees, bilateral foot pain, heart murmur, hypertension (HTN), sleep apnea, depression, fibroid and cognitive decline.

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's AHR noted special arrangements in order to participate in the hearing; specifically, a 3-way telephone hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

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.* 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.

SGA means a person does the following: performs significant duties, 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 SGA. *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 presented medical documentation.

Various physician notes, reports, and prescriptions (Exhibits A134-A202) from 2012 and 2013 were presented. The documents were not notable other than remaining consistent with below-cited documents.

An x-ray report of Claimant's knees (Exhibit A132-A133) dated [REDACTED] was presented. An impression of mild patellofemoral osteoarthritis, unchanged from 2012, was noted.

An MRI report of Claimant's lumbar (Exhibits A125-A126) dated [REDACTED] was presented. An impression of disc protrusion at L5-S1 causing effacement of the right S1 nerve root was noted. It was noted that a nerve root blocker provided Claimant with no decrease in pain (Exhibit A50).

Hospital documents (Exhibits 11-12) from an admission dated [REDACTED] were presented. It was noted that Claimant underwent a hysterectomy. Noted discharge diagnoses included a large fibroid causing abdominal bleeding. A discharge date of [REDACTED] was noted.

Various psychiatrist office visit notes (Exhibit A6-A19) were presented. Psychiatry appointments from [REDACTED], [REDACTED], and [REDACTED] were noted. It was regularly noted that Claimant reported low energy, social isolation, and depressed mood. A diagnosis of MDD and a GAF of 50 was regularly noted.

Physician office visit notes (Exhibits A67-A68) dated [REDACTED] were presented. It was noted that Claimant reported continuing back pain despite a nerve root injection. An impression of S1 radiculopathy was noted. A treatment plan to prescribe Norco was noted. It was noted that Claimant would benefit by having a laminectomy, though she did not have health insurance.

Physician office visit notes (Exhibits A55; A56) dated [REDACTED] complaining of intermittent toe pain were presented. It was noted that Claimant reported a worsening of knee pain since receiving cortisone injections a few months prior. A moderate amount of arthritis was noted. A screening test for inflammatory arthritis was noted as planned.

Physician office visit notes (Exhibits A54) dated [REDACTED] were presented. It was noted that Claimant complained of intermittent toe pain.

Physician office visit notes (Exhibits A65-A66) dated [REDACTED] were presented. It was noted that Claimant reported ongoing foot and leg pain (worse in the right). An impression of S1 radiculopathy and diabetic polyneuropathy was noted.

An Electro-Diagnostic Evaluation (Exhibit A64) dated [REDACTED] was presented. An impression of mild peripheral neuropathy was noted, without evidence of radiculopathy.

Physician office visit notes (Exhibits A90-A94) dated [REDACTED] were presented. It was noted that Claimant complained of dyspnea, chest pain, and leg pain. A stress test was noted as recommended.

A myocardial Lexiscan study (Exhibit A32) dated [REDACTED] was presented. An impression of mild anterior wall thinning indicative of reversible ischemia was noted. Claimant's ejection fraction was noted to be 62%.

Physician office visit notes (Exhibits A53) dated [REDACTED] were presented. It was noted that Claimant reported back, leg, and foot pain. Mild pronation on stance and gait were noted. It was noted that Claimant had poor shoes (she was wearing sandals). A recommendation of quitting smoking and a prescription for extra depth shoes was noted.

Cardiac testing documents (Exhibits A13-A28; A205) dated [REDACTED] were presented. An interpretation of normal blood pressure, and no significant ST segment changes was noted.

A physician letter (Exhibit A50) dated [REDACTED] was presented. A complaint of total body pain was noted. An impression of possible radiculopathy, diabetes, obesity, and degenerative knee arthritis was noted.

Physician office visit notes (Exhibits A5-A53) dated [REDACTED] were presented. It was noted that Claimant reported a back pain radiating into her legs; Claimant reported her pain was worse after "walking a distance." It was noted that a recent EMG was consistent with polyneuropathy. A plan to refill Norco and schedule a Doppler study was noted.

An x-ray report of Claimant's knees (Exhibit A35) dated [REDACTED] was presented. "Very mild" spurring and mild bilateral narrowing of medial and lateral compartments was noted. An impression of osteoarthritis was noted.

Physician office visit notes (Exhibits A86-A89) dated [REDACTED] were presented. It was noted that Claimant complained of chest pain and dyspnea upon exertion. Leg pain was also noted as reported. An echocardiogram was noted as pending.

Psychiatrist office visit notes (Exhibit A5) dated [REDACTED] were presented. It was noted that Claimant reported the following: feeling tired of everything, poor sleep. Observations and statements of Claimant included the following: psychomotor retardation, poor eye contact, cooperative behavior, difficult to connect with, limited hygiene, limited insight, and limited judgment. Claimant's GAF was noted to be 50. Paxil and Cymbalta were noted as continued.

A radiology report of leg arteries (Exhibits A30-A31; A33) dated [REDACTED] was presented. An impression of a normal left ABI was noted. It was noted that right ABI was borderline for mild disease.

Handwritten physician office visit notes (Exhibit A51) dated [REDACTED] were presented. It was noted that Claimant reported aching everywhere in her body. A Doppler study was noted as planned.

Psychiatrist office visit notes (Exhibits A48-A49) dated [REDACTED] was presented. It was noted that Claimant had the following problems: developing peripheral artery disease of the left leg, disc disease in L5-S1, mild degenerative knees, and diabetes. A recommendation of losing weight and exercising was noted. A recommendation of Ultram was noted.

Physician office visit notes (Exhibits A60-A61) dated [REDACTED] were presented. A complaint of pain radiating into right foot was noted. A normal gait and normal reflexes were noted. A plan to refer Claimant to cardiology was noted.

Physician office visit notes (Exhibits A81-A85) dated [REDACTED] were presented. It was noted that dyspnea and chest pain were both now resolved. It was noted that Claimant used a cane for mobility. An assessment of peripheral arterial disease was noted.

Physician office visit notes (Exhibits A52) dated [REDACTED] were presented. It was noted that Claimant reported toe and foot discomfort. It was noted that Claimant continued to smoke against medical advice. Impressions of DM, peripheral neuropathy, radiculopathy, and smoking were noted.

Psychiatrist office visit notes (Exhibits A3-A4) dated [REDACTED] were presented. It was noted that Claimant reported the following: feeling tired of everything, poor sleep, crying spells, audio hallucinations, and sluggish energy. Observations of Claimant included the following: dysthymic appearance, slow walking with use of a cane, slow speech, and goal directed thought, limited insight, and limited judgment. An ongoing diagnosis of depression was noted. Claimant's GAF was noted to be 50. A plan to start Abilify was noted.

Psychiatrist office visit notes (Exhibits A1-A2) dated [REDACTED] were presented. It was noted that Claimant reported no improvement since starting Abilify. Claimant described her mood as 0/10. It was noted that Claimant also reported poor sleep, morning headaches, and dyspnea. Observations of Claimant included the following: dysthymic appearance, slow walking, fair eye contact, cooperative, guarded and depressed, goal directed thought process, and limited insight and judgment. An ongoing diagnosis of depression was noted. Claimant's GAF was noted to be 50-55. Paxil, Abilify, and Cymbalta were noted as continued.

Various handwritten physician office visit notes (Exhibits A69-A81) from 2/2014 through 7/2014. The notes were only notable for being consistent with above-cited documents.

Physician office visit notes (Exhibits A110-A113) dated [REDACTED] were presented. It was noted that Claimant presented for DM follow-up. Assessments of DM and HTN were noted. Glipizide and Metformin were noted as prescribed.

Physician office visit notes (Exhibits A106-A109) dated [REDACTED] were presented. It was noted that Claimant complained of numbness and tingling in her hands. An ongoing assessment of lumbar pain was noted. An ongoing prescription for Norco was noted.

Physician office visit notes (Exhibits A101-A105) dated [REDACTED] were presented. It was noted that Claimant complained of an abscess on her right buttocks. Meds were noted as prescribed.

Physician office visit notes (Exhibits A99-A100) dated [REDACTED] were presented. It was noted that Claimant presented for DM follow-up. An ongoing assessment of DM was noted.

Physician office visit notes (Exhibits A203-A204) dated [REDACTED] were presented. It was noted that Claimant complained of knee pain. It was noted that Claimant received an injection of methylprednisolone. A one month follow-up was noted.

Claimant's testimony was not helpful in establishing standing, lifting, or walking restrictions. Claimant's presented medical documents were helpful to establish restrictions.

Presented documents established that Claimant goes to the doctor, a lot. Claimant's dozens of verified appointments verified treatment for lumbar pain, leg pain, and DM. Some cardiac abnormalities were noted but were not compelling. Verified diagnoses of disc protrusion causing radiculopathy, polyneuropathy, and knee osteoarthritis were sufficient to infer some degree of lifting and ambulation restrictions. Some degree of psychological restriction can also be inferred from Claimant's mental health treatment history.

Claimant seeks a disability finding from 9/2013. The only presented records from 9/2013 (or prior) was a hospitalization where Claimant underwent a hysterectomy. The hysterectomy and removed fibroids were not relevant to a disability finding. Subsequent treatment for various ailments was verified. The totality of evidence was suggestive that Claimant had psychological and physical restrictions as of 9/2013, despite an absence of treatment for those problems as of 9/2013.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months as of 9/2013. Accordingly, it is found that Claimant established having a severe impairment and the disability analysis may proceed to Step 3.

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.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's lumbar complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root causing muscle weakness or an inability to ambulate effectively.

A listing for chronic pulmonary insufficiency (Listing 3.02) was considered based on Claimant's complaints of dyspnea. The listing was rejected due to a lack of respiratory testing evidence.

A listing for sleep apnea (Listing 3.10) was considered based on a diagnosis. The listing was rejected due to a failure to meet the requirements of Listings 3.09 or 12.02.

Cardiac-related listings (Listing 4.00) were considered based on Claimant's cardiac treatment history. Claimant failed to meet any cardiac listings.

A listing for chronic skin infections (Listing 8.04) was considered based on treatment for an abscess. The listing was rejected due to a failure to establish extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing prescribed treatment.

A listing for peripheral neuropathies (Listing 11.14) was factored based on a documented diagnosis. The listing was rejected due to a failure to establish significant and persistent disorganization of motor function in two extremities.

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.

Claimant testified that she worked from approximately 2004-2008 as a housekeeper for a nursing home. Claimant testified that her duties included mopping floors, sweeping, laundry, and making beds. Medical records sufficiently verified that Claimant would not be able to perform the mostly standing employment of a housekeeper.

Claimant also testified that she worked for an unspecified type of plant. Claimant then testified that she never worked for a plant. Claimant's retraction was suspiciously odd, though other evidence that Claimant worked at a plant was not presented.

Based on presented evidence, it is found that Claimant is unable to perform past relevant employment. Accordingly, the disability analysis may proceed to the final step.

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.

Physician statements of Claimant restrictions were not presented. Restrictions can be inferred based on presented documents.

Presented documents noted that Claimant walked with a cane. A prescribed need for a cane was not verified, though the evidence was indicative of an inability to perform the ambulation required of light employment.

Claimant's most compelling medical documentation was lumbar treatment. It was verified that Claimant had a disc protrusion causing nerve root impingement. A need for a laminectomy, a diagnosis of radiculopathy, and nerve root injections were highly indicative of high levels of pain and ambulation restrictions.

Claimant also verified ongoing treatment for knee osteoarthritis and mild neuropathy affecting her feet. The diagnoses are consistent with an inability to perform light employment.

In addition to the above considerations, Claimant also established substantial depression symptoms which would likely affect her ability to concentrate and socialize. Even without depression symptoms, Claimant established an inability to perform light employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (less than high school), employment history (unskilled), Medical-Vocational Rule 201.09 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.

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 benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated [REDACTED], including retroactive MA benefits from 9/2013;
- (2) evaluate Claimant's eligibility for 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 Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/18/2015**

Date Mailed: **2/18/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

cc:

