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

IN THE MATTER OF:

[redacted]

Reg. No.: 15-005821
Issue No.: 4009
Case No.: [redacted]
Hearing Date: May 21, 2015
County: Wayne (18-Taylor)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on May 21, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [redacted]

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional records. The record closed on June 22, 2015, and the matter is now before the undersigned for a final determination.

ISSUE

Did the Department properly close Claimant's State Disability Assistance (SDA) benefit case based on its determination that Claimant was no longer disabled?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of SDA benefits based on a decision by the State Hearing Review Team (SHRT) on January 29, 2014, finding that Claimant was disabled (Exhibit A, p. 102).

2. In response to the SHRT decision, on February 3, 2014, Administrative Law Judge Jon Owens concluded that Claimant continued to be disabled under the SDA and Medical Assistance (MA-P) programs and ordered the Department to complete a review in January 2015 (Exhibit A, pp. 103-106).

3. In January 2015, Claimant's updated medical packet was forwarded to the Medical Review Team (MRT) for review of his ongoing eligibility for MA-P and SDA benefits based on allegations of double hip replacement, ruptured disc in the back, anxiety, depression, sciatic nerve problems, and history of seizures.

4. On April 2, 2015, MRT found Claimant no longer disabled (Exhibit A, pp. 2-7).

5. On April 7, 2015, the Department sent Claimant a Notice of Case Action that his SDA case would close effective May 1, 2015, because MRT had determined he was no longer disabled (Exhibit A, pp. 108-109).

6. On April 13, 2015, the Department received Claimant's timely written request for hearing concerning the closure of his SDA case (Exhibit A, p. 107).

7. Claimant's application with the Social Security Administration continued to be pending as of April 23, 2015 (Exhibit A, pp. 100-101; Exhibit B.)

8. Claimant alleged physical disabling impairment due to double hip replacement, ruptured disc in back, and sciatic nerve pain, chronic obstructive pulmonary disease (COPD), sleep apnea, and arthritis.

9. Claimant alleged mental disabling impairments due to depression and anxiety.

10. At the time of hearing, Claimant was 42 years old with a [redacted] birth date; he was 6'3" in height and weighed between 170 and 180 pounds.

11. Claimant has an 11th grade education and participated in special education classes in school. He can do basic math but has problems writing and comprehending.

12. Claimant has an employment history of work as a maintenance worker in a steel factory, heavy machine operator, and construction subcontractor and manager.

CONCLUSIONS OF LAW

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

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

A disabled person is eligible for SDA. BEM 261 (July 2014), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Once an individual has been found disabled, continued entitlement to benefits based on a disability is periodically reviewed in accordance with the medical improvement review standard in order to make a current determination or decision as to whether disability remains. 20 CFR 416.993(a); 20 CFR 416.994(a). In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow an 8-step sequential evaluation. The review may cease and benefits may be continued at any point if there is sufficient evidence to find that the individual is still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5). The steps are as follows:

> **Step 1.** Does the individual have an impairment or combination of impairments which meets or equals the severity of an impairment listed in 20 CFR Appendix 1 of subpart P of part 404? If so, the disability will be found to continue. 20 CFR 416.994(b)(5)(i).
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> **Step 2.** If not, has there been medical improvement as defined in paragraph (b)(1)(i) of 20 CFR 416.994? If there has been medical improvement as shown by a decrease in medical severity, the analysis proceeds to Step 3. If there has been no decrease in medical severity, there has been no medical improvement unless an exception in Step 4 applies.
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> **Step 3.** If there has been medical improvement, is it related to the individual's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv); *i.e.*, was there an increase in the individual's residual functional capacity (RFC) based on the impairment(s) that was present at the time of the most recent favorable medical determination? If medical improvement is *not* related to the individual's ability to do work, the analysis proceeds to Step 4. If medical improvement *is* related to the individual's ability to do work, the analysis proceeds to Step 5.
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> **Step 4.** If it was found at Step 2 that there was no medical improvement or at Step 3 that the medical improvement is not related to the individual's ability to work, the exceptions in 20 CFR 416.994(b)(3) and (b)(4) are considered. If none of them applies, the disability will be found to continue. If an exception from the first group of exceptions to medical improvement applies, the analysis proceeds to Step 5. If an exception from the second group of exceptions to medical improvement applies, the disability is found to have ended. The second group of exceptions to medical improvement may be considered at any point in this process.
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> **Step 5.** If medical improvement is shown to be related to an individual's ability to do work or if one of the first group of exceptions to medical

> improvement applies, **all** the individual's current impairments in combination are considered to determine whether they are severe in light of 20 CFR 416.921. This determination considers all the individual's current impairments and the impact of the combination of these impairments on the individual's ability to function. If the RFC assessment in Step 3 shows significant limitation of the individual's ability to do basic work activities, the analysis proceeds to Step 6. When the evidence shows that all the individual's current impairments in combination do not significantly limit the individual's physical or mental abilities to do basic work activities, these impairments will not be considered severe in nature and the individual will no longer be considered to be disabled.
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> **Step 6.** If the individual's impairment(s) is severe, the individual's current ability to do substantial gainful activity is assessed in accordance with 20 CFR 416.960; i.e., the individual's RFC based on all current impairments is assessed to determine whether the individual can still do work done in the past. If so, disability will be found to have ended.
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> **Step 7.** If the individual is not able to do work done in the past, the individual's ability to do other work given the RFC assessment made under Step 6 and the individual's age, education, and past work experience is assessed [unless an exception in 20 CFR 416.994(b)(5)(viii) applies]. If the individual can, the disability has ended. If the individual cannot, the disability continues.
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> **Step 8.** Step 8 may apply if the evidence in the individual's file is insufficient to make a finding under Step 6 about whether the individual can perform past relevant work. If the individual can adjust to other work based solely on age, education, and RFC, the individual is no longer disabled, and no finding about the individual's capacity to do past relevant work under Step 6 is required. If the individual may be unable to adjust to other work or if 20 CFR 416.962 may apply, the individual's claim is assessed under Step 6 to determine whether the individual can perform past relevant work.

Step One

Step 1 in determining whether an individual's disability has ended 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 with no further analysis required.

In the present case, Claimant alleges a disability due to double hip replacement, sciatic nerve pain, back pain due to ruptured disc, COPD/emphysema, and arthritis and due to depression and anxiety. The medical evidence presented at the hearing is briefly summarized below.

A [redacted] MRI of Claimant's left hip showed extensive avascular necrosis of the bilateral femoral heads with associated moderate marrow edema, left greater than right, slight collapse at the anterolateral aspect of the left femoral heat, small right and

moderate to large left hip joint effusions (Exhibit A, pp. 43-44, 89-90). He had left total hip arthroplasty on [redacted] and right total hip replacement arthroplasty on [redacted] (Exhibit A, pp. 53-56, 63-68, 90-91). An [redacted] MRI of Claimant's right hip showed a total joint prosthetic on both hips with hardware well-seated and anatomically aligned with no evidence of hardware fracture or displacement or loosening. No acute abnormality was identified. (Exhibit A, p. 94.)

Claimant's medical records from [redacted] showed ongoing complaints of pain in the upper back and lower back pain that radiated into the legs bilaterally, right greater than left, with numbness in the feet and thighs. A [redacted] MRI of Claimant's lumbar spine compared to a [redacted] MRI showed mild degenerative disc disease at L4-L5 and L5-S1 with significant improvement and a very small left lateral protrusion at L5-S1 that had not significantly changed (Exhibit A, p. 86). A June [redacted] x-ray of Claimant's lumbosacral spine showed disc space narrowing and spondylosis at L4-5 and L5-S1 and a [redacted] MRI of Claimant's lumbar spine showed minimal disc bulge and L4-5 and L5-S1 and no stenosis. The doctor concluded that a fusion would not benefit Claimant because the MRI and x-rays did not show any instability or significant stenosis. Instead, physical therapy and facet blocks were prescribed (Exhibit A, pp. 37-50). Claimant received epidural steroid injections to treat bilateral lumbar radicular pain and lumbar degenerative disk disease in [redacted] and early [redacted] (Exhibit A, pp. 51-52, 60-62, 72-82). A [redacted], MRI of Claimant's lumbar spine showed central disc protrusion at L4-L5, extending toward left anterior spinal canal of L5, mild central and left lateral recess stenosis and left foraminal stenosis, showing a significant progression when compared to a [redacted] MRI. The MRI also showed minimal left paracentral disc protrusion at L5-S1 with mild left lateral recess and foraminal stenosis (Exhibit A, pp. 71-72).

On [redacted] Claimant's neurologist completed a medical examination report, DHS-49, identifying Claimant's diagnoses as radiculopathy, herniated lumbar disc, and seizure. The doctor noted that Claimant used a cane, had paraspinal spasms and tenderness, restricted straight leg raise bilaterally, unsteady gait, and decreased range of motion. The doctor indicated that Claimant's condition was deteriorating and he had the following limitations: (i) he could frequently lift and carry ten pounds, occasionally lift and carry 20 pounds, and never lift and carry more; (ii) he could stand and/or walk less than 2 hours in an 8-hour workday; (iii) he could sit less than 6 hours in an 8-hour workday; (iii) he could use neither hand or arm to reach or push/pull; and (iv) he could use neither foot or leg to operate foot/leg controls (Exhibit A, pp. 16-18). A DHS-49 the neurologist completed on [redacted] continued to identify the same limitations (Exhibit 1).

On [redacted] Claimant's psychiatrist completed a psychiatric/psychological examination report, DHS-49, identifying Claimant's diagnosis as major depressive disorder. The psychiatrist completed a mental residual functional capacity assessment identifying Claimant as moderately limited in his ability to remember locations and work-like procedures; carry out simple, one or two-step instructions; and interact

appropriately with the general public and markedly limited in his ability to understand and remember one or two-step instructions; understand and remember detailed instructions; maintain attention and concentration for extended periods; perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances; sustain an ordinary routine without supervision; work in coordination with or proximity of others without being distracted by them; make simple work-related decision; complete a normal workday and worksheet without interruptions from psychologically-based symptoms and perform at a consistent pace without an unreasonable number and length of rest periods; interact appropriately with the general public; ask simple questions or request assistance; accept instructions and respond appropriately to criticisms from supervisors; get along with co-workers or peers without distracting them or exhibiting behavioral extremes; maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness; respond appropriately to change in the work setting; be aware of normal hazards and take appropriate precautions; travel in unfamiliar places or use public transportation; set realistic goals or make plans independently of others (Exhibit A, pp. 25-29).

On [redacted] Claimant participated in a consulting physical examination and a report was prepared. Claimant admitted smoking cigarettes and had a positive history of heavy drinking and drug use (marijuana). He reported a seizure in [redacted] and [redacted] but had no admissions and last took Depakote in [redacted]. The consulting doctor noted that Claimant had a cane for balance and support, and although she noted that he did not use it during the exam, she concluded that it was necessary to reduce pain. The doctor observed a slight limp on the right side, with a normal stance, and slow tandem, heel, and toe walk. The doctor noted that Claimant could squat to 70% of the distance and recover and bend to 75% of the distance and recover, his flexion of the knees was 0-150, and his straight leg raise was 0-50 while lying and 0-90 while sitting. Remaining range of motion measurements were within normal standards. The doctor concluded that Claimant had chronic back pain, hip pain status post-hip surgery for avascular necrosis, carpal tunnel syndrome of both wrists, a history of depression, and a history of asthma but not currently on an inhaler (Appendix A, pp. 8-15).

On [redacted] Claimant's psychiatrist from the [redacted] completed a psychiatric/psychological examination report noting a good thought process, elevated anxiety level. The report lists Claimant's diagnosis as major depressive disorder. The mental residual functional capacity assessment prepared on [redacted] was not signed by a psychiatrist or psychologist and, therefore, is not an acceptable medical source. Social Security Ruling (SSR) 06-03p.

On [redacted] Claimant advised the Department that the surgeon who performed his hip replacement had cleared him to return to work and would not complete the DHS-49 (Exhibit 2).

The medical evidence presented has been reviewed but does not meet the level necessary to meet, or equal, the severity of a Listing. Listings 1.02 (major dysfunction

of a joint); 1.04 (disorders of the spine); 3.02 (chronic pulmonary insufficiency); 3.03 (asthma); 12.04 (affective disorders); and 12.06 (anxiety-related disorder) were considered.

Because the medical evidence presented in this case was insufficient to meet or equal any of the listings considered, a disability is not continuing under Step 1 of the analysis, and the analysis proceeds to Step 2.

Step Two

If the impairment(s) does not meet or equal a Listing under Step 1, then Step 2 requires a determination of whether there has been medical improvement as defined in 20 CFR 416.994(b)(1). 20 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). If no medical improvement is found, and none of the exceptions listed below in Step 4 applies, then an individual's disability is found to continue.

The January 2014 SHRT decision, relying on newly submitted medical evidence showing limited range of motion of the left hip, negative straight leg raising, an MRI of both hips showing avascular necrosis, and an MRI of Claimant's lumbar spine showing degenerative disc bulge at L5-S1 and lesser degree at the L4-L5 with minimal foraminal narrowing, concluded that Claimant was disabled. The medical evidence presented shows that Claimant's hip condition has significantly improved (Exhibit A, p. 94; Exhibit 2). Because there was a decrease in the medical severity of the impairments which were present at the time of the January 2014 SHRT decision, there has been a medical improvement in Claimant's condition. Therefore, the analysis proceeds to Step 3.

Step Three

When medical improvement is found in Step 2, Step 3 calls for a determination of whether there has been an increase in the individual's RFC based on the impairment(s) that were present at the time of the most favorable medical determination. 20 CFR 416.994(b)(5)(iii). In other words, a determination must be made whether there has been an increase in the individual's RFC based on the impairment(s) that were present at the time of the most favorable medical determination. 20 CFR 416.994(b)(5)(iii). RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4).

In this case, SHRT concluded that Claimant was incapable of performing any work but did not identify Claimant's RFC based on the impairments present at the time of January 2014 favorable decision. While Claimant's medical improvement is related to his ability to work, the file is insufficient to determine whether there was an increase in Claimant's RFC since January 2014.

Step Four

Step 4 applies if no medical improvement was found in Step 2 or if, under Step 3, medical improvement is not related to the individual's ability to work. Step 4 evaluates whether any listed exception described in 20 CFR 416.994(b)(3) and (b)(4) applies to the individual. 20 CFR 416.994(b)(5)(iv). If no exception applies, disability is found to continue. *Id.*

Because there was a medical improvement in Claimant's condition at Step 2 and it cannot be determined at Step 3 whether the medical improvement resulted in an increased RFC, Step 4 is not relevant in this case.

Step Five

When it is found under Step 3 that a medical improvement is related to the individual's ability to do work, in Step 5 **all** of the current impairments and the impact of the combination of these impairments on the individual are assessed to determine whether all the current impairments in combination are severe. 20 CFR 416.994(b)(5)(v). If the RFC assessment in Step 3 shows significant limitation of the individual's ability to do basic work activity, the analysis proceeds to Step 6. *Id.* When the evidence shows that all the current impairments in combination do not significantly limit the individual's physical or mental abilities to do basic work activities, the impairment will not be considered severe and the individual is no longer considered disabled. *Id*.

The medical evidence presented in this case, as summarized under Step 1, is sufficient to establish that Claimant's current impairments, and the impact of the combination of these impairments, is severe. Therefore, the analysis proceeds to Step 6.

Step 6

In Step 6, the individual's current ability to do substantial gainful activity is assessed in accordance with § 416.960. 20 CFR 416.994(b)(5)(vi). At this step, the individual's RFC based on all **current** impairments is assessed to determine whether the individual can still do work he or she has done in the past. *Id*. If so, the disability has ended. *Id*.

In determining RFC, both exertional and nonexertional limitations are considered. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have exertional limitations. 20 CFR 416.969a(b). To determine the exertional requirements, or physical demands, of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a).

> 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.
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> 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. 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. If someone can do light work, … he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.
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> 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, … he or she can also do sedentary and light work.
>
> 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, … he or she can also do medium, light, and sedentary work.
>
> Very heavy work.
> Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, … he or she can also do heavy, medium, light, and sedentary work.
>
> 20 CFR 416.967.

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions 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).

In this case, Claimant alleged both exertional and nonexertional limitations to his ability to perform basic work activities. With respect to his physical limitations, Claimant testified that he had to use a cane when walking; he could stand for only 5 to 10 minutes at a time due to pressure on his foot and leg and sit for 15 to 20 minute at a

time; he could lift no more than 10 pounds; he could dress and bathe himself with difficulty; he cooked and cleaned but had to rest when doing so; and his mother took care of his laundry and shopping.

The medical record supported Claimant's complaints of back pain. A [redacted] MRI of Claimant's lumbar spine showed central disc protrusion at L4-L5, extending toward left anterior spinal canal of L5, mild central and left lateral recess stenosis and left foraminal stenoses, showing a significant progression when compared to a [redacted] MRI. The MRI also showed minimal left paracentral disc protrusion at L5-S1 with mild left lateral recess and foraminal stenosis (Exhibit A, pp. 71-72). In a [redacted] DHS-49, Claimant's neurologist noted that Claimant used a cane; had difficulty walking, an unsteady gait, decreased range of motion, restricted straight leg raise, and paraspinal spasms; and needed a back brace. The doctor concluded that Claimant's condition was deteriorating and identified the following limitations: (i) he could frequently lift and carry 10 pounds, occasionally lift and carry 20 pounds, and never lift and carry 25 pounds or more; (ii) he could stand and/or walk less than 2 hours in an 8-hour workday; (iii) he could sit less than 6 hours in an 8-hour workday; (iv) he could use neither arm or hand to reach or push/pull; and (v) he could use neither foot or leg to operate foot and leg controls (Claimant's Exhibit 1). The doctor from the [redacted] consultation noted that Claimant used a cane for balance and support, and although she noted that he did not use it during the exam, she concluded that it was necessary to reduce pain. The doctor observed a slight limp on the right side, with a normal stance, and slow tandem, heel, and toe walk. The doctor noted limitations to his ability to bend and squat and a straight leg raise that was 0-50 while lying and 0-90 while sitting (Appendix A, pp. 8-15).

With respect to Claimant's exertional limitations, it is found based on a review of the entire record and Claimant's testimony, that Claimant maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a).

Claimant also alleged nonexertional limitations due to depression and anxiety. For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id*.; 20 CFR 416.920a(c)(2).

Claimant testified that he had been participating in therapy for five years and that he hyperventilated on a daily basis, suffered from crying spells, and had difficulty comprehending. Claimant's psychiatrist completed a [redacted] psychiatric/ psychological examination report, DHS-49, identifying Claimant's diagnosis as major depressive disorder. The psychiatrist completed a mental residual functional capacity assessment identifying Claimant as markedly limited in his ability to perform almost all activities concerning understanding and memory, sustained concentration and persistence, social interaction, and adaption (Exhibit A, pp. 25-29). Based on this evidence, Claimant has marked limitations on his mental ability to perform basic work activities.

Based on his exertional RFC limiting him to sedentary work and the marked limitation in his mental RFC, Claimant would be unable to perform his prior work as maintenance worker, heavy machine operator, or construction subcontractor and manager. Accordingly, Claimant's disability cannot be found as ending at Step 6 and the assessment continues to Step 7.

Step 7

In Step 7, an assessment of an individual's RFC and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.994(5)(B)(vii). If the individual can adjust to other work, then the disability has ended. *Id.* If the individual cannot adjust to other work, then the disability continues. *Id.*

When the impairment(s) and related symptoms, such as pain, only affect the ability to perform the exertional aspects of work-related activities, Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix 2, 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). When a person has a combination of exertional and nonexertional limitations or restrictions, the rules in Appendix 2 pertaining to the strength limitations provide a framework to guide the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

In this case, at the time of hearing and review, Claimant was 42 years old and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He has an 11th grade education, with participation in special education classes in school. He testified that he had comprehension problems and his writing was illegible. His past employment skills are not transferable. 20 CFR 416.968(d). As discussed above, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities. While the Medical-Vocational Guidelines do not result in a disability finding based on Claimant's exertional limitations, Claimant also has marked limitations in his mental ability to perform basic work activities. Because of Claimant's limited mental RFC and his limited reading and writing skills, Claimant is incapable of doing other work. Therefore, Claimant's disability is found to continue at Step 7.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Claimant has continuing disability for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's SDA case effective May 1, 2015;

2. Issue supplements to Claimant for any lost SDA benefits that he was entitled to receive from May 1, 2015, ongoing if otherwise eligible and qualified in accordance with Department policy;

3. Notify Claimant of its decision in writing; and

4. Review Claimant's continued SDA eligibility in January 2016 in accordance with Department policy.

Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/30/2015**

Date Mailed: **7/01/2015**

ACE / pf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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: [redacted]