

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

IN THE MATTER OF:

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██████████

Reg. No.: 15-005563
Issue No.: 4009
Case No.: ██████████
Hearing Date: June 08, 2015
County: Saginaw

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 June 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's case manager at ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical documents. The documents were received, the record closed on July 8, 2015, and the matter is now before the undersigned for a final determination.

ISSUE

Did the Department properly determine that Claimant was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

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 January 16, 2015, Claimant submitted an application for public assistance seeking SDA benefits.
2. On March 6, 2015, the Medical Review Team (MRT) found Claimant not disabled (Exhibit A, pp. 1-2).
3. On March 6, 2015, the Department sent Claimant a Notice of Case Action denying the application based on MRT's finding of no disability.

4. On April 17, 2015, the Department received Claimant's timely written request for hearing.
5. Claimant alleged mental disabling impairment due to bipolar disorder, anxiety, and posttraumatic stress disorder (PTSD).
6. Claimant alleged physical disabling impairment due to high blood pressure and arthritis.
7. On the date of the hearing, Claimant was [REDACTED] years old with a [REDACTED], birth date; he is [REDACTED] in height and weighs about [REDACTED] pounds.
8. Claimant graduated from high school and can read, write, and do basic math.
9. Claimant has an employment history of work as a cook (heavy, semi-skilled), security guard (sedentary, unskilled), and bus boy (medium, unskilled).
10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

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).

To determine whether an individual is disabled for SSI purposes, the trier of fact must apply a five-step sequential evaluation process and consider the following:

- (1) whether the individual is engaged in substantial gainful activity (SGA);
- (2) whether the individual's impairment is severe;
- (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404;
- (4) whether the individual has the residual functional capacity to perform past relevant work; and
- (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant has not engaged in SGA activity during the period for which assistance might be available. Therefore, Claimant is not ineligible under Step 1 and the analysis continues to Step 2.

Step Two

Under Step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in

death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b).

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the *de minimus* standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985).

In the present case, Claimant alleges physical disabling impairment due to high blood pressure and arthritis and mental disabling impairment due to bipolar disorder, anxiety and PTSD. The medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below. Pages 214 to 229 of the medical packet, Exhibit A, did not pertain to Claimant; those pages were removed and were not reviewed.

Claimant's file includes psychiatric medication reviews for July 31, 2014, to December 30, 2014. Although the initial review showed diagnoses of major depression, recurrent, severe without psychosis; PTSD; bipolar disorder; and alcohol dependence (Exhibit A, pp. 19-20), all subsequent reviews showed diagnoses of bipolar disorder, PTSD, and alcohol dependence. Claimant's global assessment of functioning score continued to be 40 throughout (Exhibit A, pp. 19-34). In the September 23, 2014, review, the doctor noted that Claimant's bipolar disorder was stabilizing but he had a significant anxiety component (Exhibit A, p. 26). At the October 17, 2014, review, the doctor noted that he had encouraged Claimant to abstain from alcohol and marijuana (Exhibit A, pp. 29-30). At the December 30, 2014, review, the doctor noted that Claimant was stable, with noted overall improvement with his medication although he had increased his drinking over the holidays (Exhibit A, pp. 33-34).

Claimant's file also included progress notes showing his therapy attendance between July 22, 2014, and January 22, 2015 (Exhibit A, pp. 35-164).

On June 15, 2015, a psychiatrist at the [REDACTED] Claimant frequented completed a psychiatric/psychological examination report, DHS-49-D, identifying Claimant's diagnosis as bipolar disorder. The doctor indicated that Claimant had a flat affect, was guarded with information, his thought process was linear, his insight and judgement were good. The doctor noted that Claimant was able to function independently but with anxious mood and frequent panic attacks and he reported not participating in meaningful daily activities or desiring to do so (Exhibit 1).

The doctor also completed a mental residual functional capacity assessment, DHS-49-E, regarding Claimant's mental impairments and how they affected his activities. The psychiatrist concluded that Claimant had no, or no significant, limitations regarding his ability to understand and remember one or two-step instructions; carry out simple one or two step instructions; and be aware of normal hazards and take appropriate precautions. The psychiatrist concluded that Claimant had moderate limitations regarding his ability to remember locations and work-like procedures; understand and remember detailed instructions; carry out detailed instructions; interact appropriately with the general public; ask simple questions or request assistance; 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; and respond appropriately to change in the work setting. The psychiatrist concluded that Claimant had marked limitations regarding his ability to 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; accept instructions and respond appropriately to criticisms from supervisors; travel in unfamiliar places or use public transportation; and set realistic goals or make plans independently of others (Exhibit 1).

In consideration of the de minimus standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Claimant has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual'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 an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented, listings 1.04 (disorders of the spine), 4.00 (cardiovascular system), 12.04 (affective disorders), and 12.06 (anxiety-related disorders) were reviewed. Claimant's medical record in this case is not sufficient to support a finding that his impairments meet, or equal the severity of, any of the considered listings. Because Claimant's impairments are insufficient to meet, or equal, the severity of a listing, Claimant is not disabled under Step 3 and the analysis continues to Step 4.

Residual Functional Capacity

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Step 4, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. Impairments, and any related symptoms, may cause physical and mental limitations that affect what a person can do in a work setting. 20 CFR 416.945(a)(1). 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). The RFC takes into consideration the total limiting effects of all impairments, including those that are not severe. 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only 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 only 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.

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.

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 alleges both exertional and nonexertional limitations due to his medical condition. He testified that he could sit, stand and walk, although he felt some discomfort after walking and he got sore easily. He could do his own chores. However, he had two to three anxiety attacks each week that could last hours, daily crying spells, problems controlling angry outbursts, and memory problems. He also testified that his medication made him dizzy and did not help with his memory, anxiety issues and mood swings.

With respect to Claimant's exertional limitations, a review of the entire record, which shows no medical evidence supporting limitations, and Claimant's testimony, it is found that Claimant maintains the physical capacity to perform medium work as defined by 20 CFR 416.967(c).

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). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of mental functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. Id. The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. Id.

Claimant's medical record shows his diagnosis as bipolar disorder and his doctor noted that he was able to function independently but with anxious mood and frequent panic attacks and he reported not participating in meaningful daily activities or desiring to do so. He assigned Claimant a GAF score of 40, which is indicative of major impairment in several areas relating to level of functioning. The mental residual functional capacity assessment, DHS-49-E, completed by Claimant's doctor showed that he had moderate limitations regarding his ability to remember locations and work-like procedures; understand and remember detailed instructions; carry out detailed instructions; interact appropriately with the general public; ask simple questions or request assistance; 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; and respond appropriately to change in the work setting. The doctor identified marked limitations regarding Claimant's ability to 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; accept instructions and respond appropriately to criticisms from supervisors; travel in unfamiliar places or use public transportation; and set realistic goals or make plans independently of others (Exhibit 1).

Based on the medical record presented, as well as Claimant's testimony, Claimant has moderate limitations in his social functioning, moderate limitations in his activities of daily living, and marked limitations on his sustained concentration, persistence and pace.

Claimant's RFC is considered at both steps four and five. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step 4 in analyzing a disability claim requires an assessment of Claimant's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed within the past 15 years that was SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

As determined in the RFC analysis above, Claimant is capable of medium work activities and has moderate limitations in his social functioning, moderate limitations in his activities of daily living, and marked limitations on his sustained concentration, persistence and pace. The DHS-49E indicates Claimant has no or no significant limitations concerning his ability to understand and remember one or two step instructions, carry out simple one or two step instructions and be aware of normal work place hazards. Claimant's work history in the 15 years prior to the application consists of work as a cook (heavy, semi-skilled), security guard (sedentary, unskilled), and bus boy (medium, unskilled). Because Claimant's prior work would require sustained concentration, in light of the entire record and Claimant's RFC, particularly his mental limitations, it is found that Claimant is unable to perform past relevant work. Accordingly, Claimant cannot be found disabled, or not disabled, at Step 4 and the assessment continues to Step 5.

Step 5

In Step 5, an assessment of Claimant's RFC and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). If the individual can adjust to other work, then there is no disability. Disability is found if an individual is unable to adjust to other work.

At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). 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). 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). However, 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). When a person has a combination of exertional and nonexertional limitations or restrictions, the rules 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, Claimant was ■ years old at the time of application and ■ years old at the time of hearing, and thus considered to be a younger individual (age 18-44) for purposes of Appendix 2. He is a high school graduate with a history of work experience limited to unskilled or nontransferable semi-skilled labor.

As discussed above, Claimant maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform medium work activities. The Medical-Vocational Guidelines, 203.29, do not result in a disability finding based on Claimant's exertional limitations. However, Claimant's medical record also shows nonexertional limitations to his ability to perform basic work activities. With respect to his mental ability to perform basic work activities, has moderate limitations in his social functioning, moderate limitations in his activities of daily living, and marked limitations on his sustained concentration, persistence and pace.

Although Claimant has no, or no significant, limitations concerning his ability to understand and remember one or two step instructions and carry out simple one or two step instructions, based on his marked limitations in his ability to maintain sustained concentration and pace, coupled with his current GAF score of 40, he would be incapable of performing simple, unskilled work on a full-time, persistent basis. See Social Security Ruling (SSR) 85-15. Therefore, after review of the entire record, including Claimant's testimony, and in consideration of Claimant's age, education, work experience, physical as well as mental RFC, Claimant is found disabled at Step 5 for purposes of SDA benefit program.

Notwithstanding the conclusion that the medical evidence shows that Claimant is disabled at Step 5, 42 USC 423(d)(2)(C) of the Social Security Act provides that an individual is not considered disabled if alcoholism or drug addiction is a contributing factor material to the determination that the individual is disabled. Because evidence in the medical record and Claimant's testimony at the hearing showed that he used marijuana, 20 CFR 416.935(a) requires a determination of whether Claimant's drug addiction or alcoholism (DAA) is a contributing factor material to the determination of

disability. The key factor in determining whether DAA is a contributing factor material to the determination of disability is whether the client would be disabled if he or she stopped using drugs or alcohol. 20 CFR 416.935(b)(1). This requires consideration of whether the current disability determination would remain if the client stopped using drugs or alcohol. 20 CFR 416.935(b)(2). If the remaining limitations would not be disabling, the DAA is a contributing factor material to the determination of disability. 20 CFR 416.935(b)(2)(i). If the remaining limitations are disabling, the individual is disabled independent of the DAA and, as such, the individual's DAA is not a contributing factor material to the determination of disability. 20 CFR 416.935(b)(2)(ii). The client continues to have the burden of proving disability throughout the DAA materiality analysis. SSR 13-2p(5)(a).

In this case, while there is evidence that Claimant was encouraged by his doctor to abstain from alcohol and marijuana use, there was no evidence to suggest that Claimant's mental impairments would be resolved if he stopped using alcohol and marijuana. Therefore, Claimant's marijuana use is not a contributing factor material to the determination that he is disabled.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant **disabled** 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. Reregister and process Claimant's January 16, 2015, SDA application to determine if all the other non-medical criteria are satisfied and notify Claimant of its determination;
2. Supplement Claimant for lost benefits, if any, that Claimant was entitled to receive if otherwise eligible and qualified;

3. Review Claimant's continued eligibility in January 2016.



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

Date Signed: **7/16/2015**

Date Mailed: **7/16/2015**

ACE / tlf

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

