

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-005949
Issue No.: 4009
Case No.: ██████████
Hearing Date: June 08, 2015
County: Macomb-District 12

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 stepfather. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Hearing Facilitator.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional records. Claimant's MRI and psychological records were received; the requested hospital records were not. 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 5, 2015, Claimant submitted an application for public assistance seeking SDA benefits.
2. On April 13, 2015, the Medical Review Team (MRT) found Claimant not disabled (Exhibit B, pp. 6-11).

3. On April 15, 2015, the Department sent Claimant a Notice of Case Action denying the application based on MRT's finding of no disability (Exhibit A).
4. On April 24, 2015, the Department received Claimant's timely written request for hearing.
5. Claimant alleged physical disabling impairment due to back, shoulder, hand and leg pain; carpal tunnel syndrome of the right hand; and kidney stones.
6. Claimant alleged mental disabling impairment due to depression.
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 completed the [REDACTED] grade and [REDACTED].
9. Claimant has an employment history of work as cable installer.
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).

As a preliminary matter, it is noted that, although the Department addressed the denial of Claimant's MA and SDA application, Claimant requested a hearing concerning only his SDA denial and clarified on the record that he was concerned only about the SDA denial. Accordingly, the hearing proceeded to address the Department's denial of the SDA application only.

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 person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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 back, shoulder, hand and leg pain and carpal tunnel syndrome of the right hand and mental disabling impairment due to depression. The medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

On July 29, 2014, Claimant's primary care physician completed a physical exam report, DHS-49, diagnosing Claimant with chronic back and neck pain, weakness, and radiculopathy due to multilevel disc disease. The doctor noted that Claimant had an unsteady gait, decreased grip strength, right hand numbness, full range of motion of the spine with pain, and decreased range of motion in his left shoulder. The doctor identified Claimant's condition as deteriorating and identified the following limitations: (i) he could frequently lift and carry up to 10 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; (iv) he could use not us his left hand to grasp or fine-manipulate and could not use his right hand reaching or pushing/pulling; and (v) he could use neither foot or leg to operate foot and leg controls. The doctor also noted mental limitations due to memory (Exhibit B, pp. 65-67, 69-71).

In an August 21, 2014, initial psychiatric evaluation, Claimant was diagnosed with major depressive disorder, single, severe without psychosis and generalized anxiety disorder. The doctor noted that Claimant reported sadness; increased crying spells; feelings of helplessness, hopelessness and worthlessness; increased isolating; racing thoughts; increased agitation and irritation; increased argumentative behaviors; increased problems with focus, concentration, and memory; and increased panic attacks. The doctor assigned Claimant a global assessment of functioning (GAF) score of 42 (Exhibit 1; Exhibit D).

On October 24, 2014, a psychiatric evaluation was completed confirming the diagnosis of major depressive disorder, single, severe without psychosis and generalized anxiety disorder but the GAF score was increased to 55. The doctor noted depression, anxiety and poor impulse control but no audio-visual hallucinations, persecutory delusion, or suicidal or homicidal ideations (Exhibit D). The progress notes show Claimant's ongoing attendance at therapy from September 2014 to December 2014 and from March 2015 to June 2015 (Exhibit D).

On October 8, 2014, Claimant submitted to a physical examination by a doctor at the Department's request. The consulting doctor noted that Claimant had good handgrip bilaterally, intact digital dexterity, a slow gait with a limp favoring the left while in the examining room that was not observed when he was walking down the hallway to the waiting room, and decreased range of motion of the lumbar and cervical spine (Exhibit B, pp. 47-54).

Claimant had spinal fusion surgery in December 2014. An April 6, 2015, MRI of Claimant's cervical spine showed fusion hardware from C5 to C7 with central disc osteophyte complex at C5-C6 causing indentation of the ventral aspect of the spinal cord (Exhibit 2). A March 17, 2015 x-ray of Claimant's spine showed no abnormalities in the lumbar spine and showed orthopedic hardware extending from C5 through C7, with the intervertebral disc spaces above this level maintained but slight narrowing of C5-C6 with slight posterior offset of C5 on C6 (Exhibit B, p. 20).

From December 19, 2014 to December 21, 2014, Claimant was admitted for gastrointestinal bleeding. The hospital summary shows prior diagnoses of depression, cervical disc disorder with radiculopathy, and atrial fibrillation with rapid ventricular response (Exhibit B, pp. 35-37).

On January 13, 2015, Claimant's neurosurgeon completed a medical examination report, DHS-49, showing a diagnoses of cervical radiculopathy, but the second page

showing the examination results and physical limitations was not provided (Exhibit B, pp. 38-39).

On March 17, 2015, Claimant was examined by a consulting doctor at the Department's request and an examination report was prepared by the doctor. In his report, the doctor noted that Claimant reported pain in multiple joints, CTS, pain in both hands, feet, knees and ankles. The doctor noted that Claimant was ambulating via wheelchair, which he reported using since December 2014. In examining Claimant, the doctor found that knees, ankles and wrist joints were unremarkable; Claimant could button and unbutton clothing normally with both hands; gross and fine dexterity were intact in both hands; and range of motion of all joints were normal. Claimant's range of motion of the cervical spine was mildly restricted. Claimant refused to comply with range of motion testing of the lumbar spine. He noted, however, that the straight leg raise was negative to 90 degrees bilaterally and Patrick test was negative bilaterally. The doctor concluded that Claimant was over-reacting to pain and seemed to be malingering and that the wheelchair was not medically necessary for ambulation. The doctor found that Claimant had no limitation in walking, carrying, pushing or pulling and should be able to work 8 hours a day (Exhibit B, pp. 12-19).

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.

The medical evidence presented does **not** show that Claimant's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Listings 1.02 (major dysfunction of a joint), 1.04 (disorders of the spine), 6.05 (chronic kidney disease with impairment of kidney function), 12.04 (affective disorders), and 12.06 (anxiety-related disorders) were considered. Because Claimant's impairments are insufficient to meet, or to 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.

Claimant's medical record shows that Claimant had a back fusion surgery in December 2014. Prior to that time, his doctor had indicated that he had significant limitations (i) he could frequently lift and carry up to 10 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; (iv) he could use not us his left hand to grasp or fine-manipulate and could not use his right hand reaching or pushing/pulling; and (v) he could use neither foot or leg to operate foot and leg controls (Exhibit B, pp. 65-67, 69-71).

Claimant testified that his condition had not improved after the fusion surgery. At the hearing, he appeared in a wheelchair and testified that he was barely able to walk and could stand for no longer than 5 minutes. He testified that he could not sit for too long because of pain. He lived with his mother and stepfather who did the chores in the home because he was unable to do so. He had difficulties dressing himself and he used a raised toilet seat. Claimant and his stepfather both testified that the state had purchased a scooter for Claimant's use in the home based on his doctor's prescription. The Department worker at the hearing testified that Claimant was in a wheelchair and

appeared in pain; she noted that he was hunched over in the fetal position, his hands were locked and he rocked and shook; she did not believe he could walk.

An April 6, 2015, MRI of Claimant's cervical spine showed fusion hardware from C5 to C7 with central disc osteophyte complex at C5-C6 causing indentation of the ventral aspect of the spinal cord (Exhibit 2). A March 17, 2015, x-ray of his spine showed no abnormalities in the lumbar spine and showed orthopedic hardware extending from C5 through C7, with the intervertebral disc spaces above this level maintained but slight narrowing of C5-C6 with slight posterior offset of C5 on C6 (Exhibit B, p. 20). A consulting physician who examined Claimant on March 17, 2015, at the Department's request found that Claimant's knees, ankles and wrist joints were unremarkable; his gross and fine dexterity were intact in both hands; his range of motion of all joints were normal; and his range of motion of the cervical spine was mildly restricted. Claimant refused to comply with range of motion testing of the lumbar spine, but the doctor noted that the straight leg raise was negative to 90 degrees bilaterally and Patrick test was negative bilaterally. The doctor concluded that Claimant was over-reacting to pain and seemed to be malingering and that the wheelchair was not medically necessary for ambulation. The doctor found that Claimant had no limitation in walking, carrying, pushing or pulling and should be able to work 8 hours a day (Exhibit B, pp. 12-19).

With respect to Claimant's exertional limitations, a review of the entire record shows that Claimant may have limitations due to his back pain but does not support his testimony as to the severity of the pain, particularly in light of the March 17, 2015, consultative exam results and concerns of malingering. Based on the evidence presented, it is found that Claimant maintains the physical capacity to perform at least sedentary work as defined by 20 CFR 416.967(a).

Claimant also alleged nonexertional limitations due to his mental condition. 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). 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 testified that he had anxiety attacks that had decreased over time, problems with concentration and memory, crying spells, and limited social interactions. The October 24, 2014, psychiatric listed diagnoses of major depressive disorder, single,

severe, without psychosis and generalized anxiety disorder. Claimant was assigned a GAF score of 55. The doctor noted depression, anxiety and poor impulse control but no audio-visual hallucinations, persecutory delusion, or suicidal or homicidal ideations (Exhibit D). The progress notes show Claimant's ongoing attendance at therapy from September 2014 to December 2014 and from March 2015 to June 2015 and ongoing complaints of back pain (Exhibit D). Based on the medical record presented, as well as Claimant's testimony, Claimant has mild to moderate limitations on his mental ability to perform basic work activities.

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 limited to sedentary work activities and has mild to moderate limitations in his mental capacity to perform basic work activities. Claimant's work history in the 15 years prior to the application consists of work as a cable installer (heavy, semi-skilled). In light of the entire record and Claimant's RFC, including 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, at the time of hearing and at application, Claimant was ■ years old and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He ■ and has a history of work experience as a cable installer. Because Claimant's skills in his past employment are tied to heavy work, the skills are not transferable. 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 and has mild to moderate limitations on his mental ability to perform work activities. The Medical-Vocational Guidelines, 201.25, do not result in a disability finding based on Claimant's exertional limitations. While Claimant's also has mild to moderate nonexertional limitations, these limitations would not preclude him from sustained employment. 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 not disabled at Step 5 for purposes of SDA benefit program.

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 **not disabled** for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.



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

Date Signed: **7/23/2015**

Date Mailed: **7/23/2015**

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

