

**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.: 15-009362
Issue No.: 4009
Case No.: ██████████
Hearing Date: July 9, 2015
County: Macomb (36)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on July 9, 2015, from Detroit, Michigan. Participants included the above-named Claimant. ██████████, Claimant's daughter, testified on behalf of Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included ██████████, hearing facilitator, and ██████████, specialist.

ISSUE

The issue is whether MDHHS properly denied Claimant's State Disability Assistance (SDA) eligibility for the reason that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On February 2, 2015, Claimant applied for SDA benefits.
2. Claimant's only basis for SDA benefits was as a disabled individual.
3. On May 18, 2015, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 6-8).
4. On May 20, 2015, MDHHS denied Claimant's application for SDA benefits and mailed a Notice of Case Action (Exhibits 2-5) informing Claimant of the denial.

5. On June 3, 2015, Claimant requested disputing an action concerning Medical Assistance (MA) benefits; Claimant testimony clarified that she only disputes a denial of her SDA application.
6. On July 9, 2015, an administrative hearing was held.
7. During the hearing, Claimant and MDHHS waived the right to receive a timely hearing decision.
8. During the hearing, the record was extended 30 days to allow Claimant to submit a lumbar spine radiology report and/or a Medical Examination (or statement from a treating physician concerning Claimant's abilities and/or restrictions); an Interim Order Extending the Record was subsequently mailed to both parties.
9. Claimant failed to submit additional medical records.
10. As of the date of the administrative hearing, Claimant was a 49 year old female.
11. Claimant has not earned substantial gainful activity since before the first month of benefits sought.
12. Claimant's highest education year completed was the 12th grade.
13. Claimant has a history of unskilled employment, with no transferrable job skills.
14. Claimant alleged disability based on restrictions related to a traumatic brain injury, post-traumatic stress disorder (PTSD), uneven hips, lumbar pain, and cervical spine pain.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. MDHHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. MDHHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing. Claimant's hearing request noted that Claimant uses a walker and/or wheelchair. Claimant's hearing request did not state what accommodation was necessary. Claimant testified that no accommodation was needed for her hearing attendance or participation and the hearing was conducted accordingly.

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1. A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
 - resides in a qualified Special Living Arrangement facility, or
 - is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
 - is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
- Id.*

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for SDA eligibility without undergoing a medical review process (see BAM 815) which determines whether Claimant is a disabled individual. *Id.*, p. 3.

Generally, state agencies such as MDHHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. As noted above, SDA eligibility is based on a 90 day period of disability.

SGA means a person does the following: performs significant duties, does them for a reasonable length of time, and does a job normally done for pay or profit. *Id.*, p. 9. Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute SGA. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of

disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. "Current" work activity is interpreted to include all time since the date of application. The 2015 monthly income limit considered SGA for non-blind individuals is \$1,090.

Claimant credibly denied performing any employment since the date of the SDA application; no evidence was submitted to contradict Claimant's testimony. Based on the presented evidence, it is found that Claimant is not performing SGA and has not performed SGA since the date of application. Accordingly, the disability analysis may proceed to Step 2.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.* The 12 month durational period is applicable to MA benefits; as noted above, SDA eligibility requires only a disability duration of 90 days.

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity

requirement is intended “to do no more than screen out groundless claims.” *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant’s impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with background information from Claimant’s testimony and a summary of presented medical documentation.

Claimant testified that in 2009, she was riding as a passenger on a motorcycle when her vehicle hit a deer. Claimant testified that the accident resulted in fractures to both of her tibia and fibia, broken ankles, a dislocated hip, a neck injury, and a traumatic brain injury. Claimant testified that she was not able to walk for 6 months. Claimant testified that she still has physical and psychological injuries because of the accident. Claimant’s testimony was consistent with presented medical documents, including 2009 and 2010 dated medical documents (Exhibits 77-99).

Hospital discharge instructions (Exhibits 43-60) from an admission dated February 24, 2015, were presented. A pelvic ultrasound report noted an impression of a thickened endometrium while noting that an endometrial polyp could not be excluded. A primary diagnosis of abnormal uterine bleeding was noted. A course of action was not apparent. A discharge date of February 26, 2015 was noted.

A Treatment Summary from a counseling and behavioral center (Exhibits 36-38) dated March 2, 2015, was presented. It was noted that Claimant was attending her second individual treatment session. Claimant’s reported symptoms included the following: concentration difficulty, disassociation, nightmares, (Claimant testified she has them 3-4 times per week), flashbacks, panic attacks, and increased startle response. It was noted that Claimant took unspecified psychotropic medications. Noted treatment included cognitive behavioral therapy and structured trauma sensory intervention.

An MRI report of Claimant’s cervical spine (Exhibits 39-42) dated March 9, 2015, was presented. An impression of a C2-C3 bulging disc was noted. A C3-C4 disc protrusion type herniation with annular tears compressing the ventral thecal sac causing mild foraminal narrowing was noted. A C5-C6 disc herniation causing moderate spinal canal stenosis with moderate-to-severe right lateral recess and cord compression was noted. A C6-C7 disc herniation causing mild-to-moderate spinal canal stenosis with cord compression and moderate-to-severe right neuroforaminal narrowing was noted. Grade I anterolisthesis at C4-C5 was also noted.

A Medical Examination Report (Exhibits 33-35) dated March 20, 2015, was presented. The form was completed by a physician with an approximate 4 year history of treating Claimant. Claimant’s physician listed diagnoses of a traumatic brain injury, neck pain, and hip pain. An impression was given that Claimant’s condition was stable. It was noted that Claimant can meet household needs.

A Medical Needs form (Exhibit A1) dated March 20, 2015, was presented. It was noted that Claimant attended monthly appointments. It was noted that Claimant required assistance with shopping, laundry, and housework. An illegible restriction to Claimant's ability to return to work was stated.

An internal medicine examination report (Exhibits 9-17) dated April 17, 2015, was presented. The report was noted as completed by a consultative physician. Claimant reported complaints of HTN, a congenital atrophic right kidney, chronic headaches, memory loss, chronic neck pain, bilateral shoulder pain, persistent lower back pain (9/10 without pain medication; 4/10 with pain medication), bilateral hip pain, left knee pain, bilateral leg pain, bilateral ankle pain (10/10 with pain medication; 4/10 with medication), bipolar disorder, depression, and PTSD. Claimant's gait was noted as slow with a limping tendency. It was noted that Claimant was unsteady with tandem walking, toe walking, and heel walking. The following range of motion restrictions were noted: cervical spine flexion, cervical spine extension, cervical spine right and left lateral flexion, cervical spine right and left rotation, lumbar flexion, lumbar extension, lumbar right and left lateral flexion, bilateral shoulder abduction. Bilateral shoulder adduction, right shoulder internal rotation, bilateral shoulder external rotation, bilateral shoulder forward elevation, bilateral hip abduction, bilateral hip adduction, bilateral hip forward flexion, bilateral hip backward extension, bilateral hip internal rotation, bilateral hip external rotation, left knee flexion, bilateral ankle dorsi-flexion, and bilateral ankle plantar-flexion. A positive seated straight-leg-raising test was noted. The examiner noted that clinical evidence does not support a need for a walking-assistance device.

The consultative examination report included an x-ray report of Claimant's lumbosacral spine (Exhibit 16) dated April 27, 2015. An impression of 20% disc space narrowing at L5-S1 and degenerative changes at L1-L2 and L2-L3 were noted.

A mental status examination report (Exhibits 18-23) dated April 23, 2015, was presented. The report was noted as completed by a consultative licensed psychologist and limited licensed psychologist. The following mental health symptoms were reported by Claimant: sleep difficulties, short-term memory loss, concentration difficulties, and PTSD including flashbacks. Claimant reported that she sometimes drives but is sometimes anxious when in a car. Notable observations of Claimant made by the consultative examiner include the following: normal gait and posture, tearful when discussing functional reductions, in-touch with reality, adequate concentration and attention, mildly constricted affect, logical stream of mental activity, orientation x3, and no difficulty with memory or concentration during examination. Claimant reported that she can drive short distances, dress herself, shower herself, and perform light household chores. As part of the mental status examination, Claimant underwent Weschler Memory Scale testing. Claimant's index scores were as follows: auditory immediate 62, visual immediate 45, immediate memory 45, auditory delayed 46, visual delayed 50, auditory recognition delayed 60, general memory 45, and working memory 66. The consultative examiner opined that Claimant put forth minimal effort and

exaggerated for secondary gain. The examiner concluded that Claimant has mild cognitive impairments which may affect Claimant's ability to perform work-related activities with 2-3 step directions. It was also noted that Claimant displayed no psychiatric symptoms which interfere with her ability to work. A fair-to-guarded prognosis was noted.

Hospital discharge instructions (Exhibits A4-A11) from an admission dated June 23, 2015, were presented. It was noted that Claimant underwent an angiogram during the hospitalization; a finding of complete occlusion of left popliteal artery was noted. Various INR testing and a prescription for Warfarin and physical therapy were noted. A discharge date of June 29, 2015 was noted.

Claimant alleged that she has many exertional restrictions. Claimant testified she underwent bone grafting on her legs in 2010 and 2011. Claimant testified she could not walk for 6 months, and still has difficulties. Claimant testified she sees a rehabilitation and orthopedic doctor for leg and back pain. Claimant testified she's had 3-4 physical therapy appointments, but it is not helping to reduce her pain. Claimant testified that she has difficulty with walking, standing, and sitting. Claimant testified that she needs help getting in and out of the bathtub. Claimant also testified that she needs help with putting on her shirts due to difficulty with lifting her arms. Claimant testified that she tries to clean up after herself but is unable to perform any cleaning due to standing restrictions. Claimant testified that approximately 3-4 days per week, she cannot walk at all.

Claimant also alleged numerous exertional restrictions. Claimant says she occasionally drives but gets very nervous if she sees a motorcycle or a car cuts in front of her. Claimant testimony estimated she has accident flashbacks every couple of days. Claimant says she has to sit in the backseat of a car and she gets very nervous for longer drives. Claimant testified that her weekly therapy sessions help her with PTSD. Claimant's daughter testified that her mother has daily crying spells.

Presented evidence was sufficient to establish that Claimant has physical and psychological restrictions that have and/or will last longer than 90 days. Accordingly, it is found that Claimant established having a severe impairment and the disability analysis may proceed to Step 3.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

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

A listing for organic mental disorders (Listing 12.02) was considered based on a diagnosis of closed-head injury. This listing was rejected due to a failure to establish marked psychological restrictions or a mental disorder of 2 years duration that imposes more than a minimal limitation on Claimant's ability to perform basic work activities.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to the fourth step.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

A Work History Questionnaire (Exhibits 65-69) completed by Claimant and submitted to MDHHS on March 19, 2015, was presented. Claimant listed various jobs, most of which could not be identified due to poor handwriting. All jobs alleged lifting/carrying of at least 25 pounds. For purposes of this decision, it will be found that Claimant is unable to lift/carry 25 pounds, and therefore, Claimant cannot perform past relevant employment. Accordingly, the analysis may proceed to the final step.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific

case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform sedentary employment. For sedentary employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

Physician statements of restrictions were provided. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*.

On a Medical Examination Report dated March 20, 2015, Claimant's physician opined that Claimant was restricted to less than 2 hours of standing and/or walking over an eight-hour workday. Claimant was found restricted to occasional lifting/carrying of 10 pounds or less. Claimant's physician stated that Claimant was capable of frequent lifting/carrying of 20 pounds or more (presumably the physician intended to state the opposite). Claimant's physician opined that Claimant was restricted from performing the following repetitive actions: bilateral pushing/pulling, and operating foot/leg controls with either foot or leg. Mental restrictions of memory, sustaining concentration, and reading/writing were noted. Restrictions were stated as supported by Claimant's history of a traumatic brain injury.

History of a traumatic brain injury, by itself, is not particularly indicative of restrictions provided by Claimant's physician. Restrictions imposed by Claimant's physician would have been more persuasive had the physician bothered to provide details to justify restrictions.

Claimant did not bolster her claim by evidence suggesting malingering and/or exaggerating. The most obvious evidence of malingering came from a consultative examiner who called-out Claimant for exaggerating her cognitive impairments. Claimant testified that she was not exaggerating and disagreed with the assessment.

Claimant testified that she can only sit for 5 minutes before her back feels painfully numb. Claimant's testimony came at a point during the hearing when Claimant had been sitting for 30 minutes. When Claimant was asked about the seeming contradictory evidence, Claimant testified that she also has difficulty standing due to a recent leg surgery for a blood clot removal (which was not verified).

Claimant testified that she spends most of her time on her back. Claimant and her daughter testified that Claimant requires use of a scooter when shopping. Claimant and her daughter testified that Claimant has used a walker for 6 years. This evidence was suggestive that Claimant required a walking-assistance device. A consultative examiner

specifically stated that Claimant required no walking assistance device. No documentary evidence suggested a requirement of a walking assistance device.

Physician-stated restrictions of occasional lifting/carrying of 10 pounds or less and 2 hours of standing/walking per workday are both indicative of an inability to perform any level of employment. The restrictions were supported with radiology verifying abnormalities of stenosis, foraminal narrowing, lateral recess and cord compression. Multiple ranges of restriction were indicated in a consultative physical examination. A history of a traumatic brain injury was also verified. This evidence was generally indicative of physician-stated restrictions.

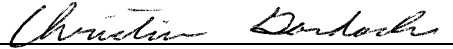
Claimant's physician, a consultative internal medicine examiner, cervical spine radiology, and traumatic brain injury history, when taken together outweighed evidence indicative that Claimant was malingering. Presented evidence was slightly more suggestive than not that Claimant's combined exertional and non-exertional restrictions prevent Claimant from performing any type of employment. Accordingly, it is found that Claimant is disabled and that MDHHS improperly denied Claimant's SDA application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that MDHHS improperly denied Claimant's application for SDA benefits. It is ordered that MDHHS:

- (1) reinstate Claimant's SDA benefit application dated February 2, 2015.
- (2) evaluate Claimant's eligibility subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

The actions taken by MDHHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Signed: **8/11/2015**

Date Mailed: **8/11/2015**

GC/tm

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

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

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

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

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

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

Attention: MAHS Rehearing/Reconsideration Request

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

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]