

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015039
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: November 09, 2015
County: Macomb (36) Sterling Hts.

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 November 9, 2015, from Sterling Heights, Michigan. The Petitioner was represented by the Petitioner; and a witness, [REDACTED], also appeared. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

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 April 19, 2015, the Petitioner submitted an application for public assistance seeking SDA.
2. On July 16, 2015, the Medical Review Team (MRT) and or (DDS) found the Petitioner not disabled.
3. The Department notified the Petitioner of the MRT determination on July 16, 2015.
4. On August 7, 2015, the Department received the Petitioner's timely written request for hearing.
5. An Interim Order was issued November 10, 2015. New evidence was received by the undersigned from Petitioner and reviewed.

6. The Petitioner has not alleged any mental disabling impairments.
7. The Petitioner alleges physical disabling impairments due to numbness and weakness in all extremities requiring use of a cane and medications for pain.
8. At the time of hearing, the Petitioner was [REDACTED] years old with a [REDACTED], birth date. Petitioner is 5' 6" tall in height; and weighed 200 pounds. The Petitioner is right-handed.
9. The Petitioner completed high school and a half year of college. The Petitioner's work experience included work as a jewelry designer, and he also repaired jewelry. The Petitioner was a master goldsmith.
10. The Petitioner's impairments have lasted or are expected to last 12 months 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 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.

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to establish it 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant 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).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a) (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). If impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Petitioner is not involved in substantial gainful activity, and therefore, is not ineligible for disability benefits under Step 1.

The severity of the Petitioner's alleged impairment(s) is considered under Step 2. The Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR

916.920(b). 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 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and dealing with changes in a routine work setting.

Id.

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a Petitioner's age, education, or work experience, the impairment would not affect the Petitioner's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

The Petitioner has not alleged any mental disabling impairments. The Petitioner has alleged physical impairment due to weakness and numbness in all extremities requiring use of a cane and pain requiring use of pain medications.

A summary of the medical evidence presented at the hearing and received pursuant to the Interim Order follows.

The Petitioner's Family Practice doctor, a treating doctor, completed a DHS-49 dated [REDACTED]. The diagnosis was chronic inflammatory demyelinating polyradicular neuropathy. The Petitioner has been prescribed medications, which include gabapentin and prednisone. The exam notes indicate that the patient uses cane to ambulate and that an assistive device was necessary. Symmetrical motor impairment with sensory deficits also bilateral weakness. The Petitioner was deteriorating and limitations were imposed. The Petitioner could occasionally lift 10 pounds and no more

than 20 pounds. The Petitioner could stand and or walk less than 2 hours out of an 8-hour workday. The Petitioner was noted as unable to use his hands or arms for simple grasping and fine manipulating and could not use feet/leg controls for either foot/leg. No restrictions were noted with respect to sitting. The doctor indicated that petitioner could meet his needs in the home. The evaluation did not enumerate the medical findings which formed the basis for the physical limitations imposed.

The Petitioner's pain management doctor completed a DHS-49 in [REDACTED] with a diagnosis of inflammatory demyelinating poly radicular neuropathy. The Petitioner was deteriorating and limitations were imposed. The Petitioner could occasionally lift 10 pounds and no more than 20 pounds. The Petitioner could stand and or walk less than 2 hours out of an 8-hour workday. The Petitioner was noted as unable to use his hands or arms for simple grasping and fine manipulating and could not use feet/leg controls for either foot/leg. The doctor indicated that petitioner could meet his needs in the home. The evaluation did not enumerate the medical findings which formed the basis for the physical limitations imposed. The doctor noted use of cane with limited range of movement. No restrictions were noted with respect to sitting. The Doctor notes limited range of motion for both upper and lower extremities and use of cane for balance and support. The doctor also noted a motor and sensory impairment with numbness and weakness with sensory impairment with decrease in sensation. No test results were referenced. The doctor indicated that petitioner could meet his needs in the home. The evaluation did not enumerate the medical findings which formed the basis for the physical limitations imposed.

The Petitioner was seen by his doctor treating and managing his pain on [REDACTED] [REDACTED]. During the examination, the notes indicate that oxycodone relieved the pain level to 2/10 but lasted only 2 hours. Past medical history noted hypertension, enlarged heart and cirrhosis of the liver, and testicular cancer in 2008. The Impression was neuropathic extremity pain of unknown etiology, peripheral/inflammatory neuropathy, hypertension, chronic alcohol in remission and history of liver cirrhosis. The Petitioner was prescribe MS Contin.

The Petitioner was seen on [REDACTED] by his treating doctor; and during the exam, the neurological exam sensory shows hyperesthesia especially the fingertips of the feet deep tendon reflexes were 1+ bilaterally and motor strength, 3+4. The diagnosis was Neuralgia, neuritis and radiculitis unspecified.

In [REDACTED] the Petitioner saw a neurologist for a consultation at the Neuromuscular Disorders Clinic. At the time of the consultation, the Petitioner advised that he had 5 to 6 alcoholic beverages nightly for 10 to 20 years. An MRI of cervical spine and brain was reviewed, which was normal. At the time, Petitioner had not had an EMG or lumbar puncture. A motor exam was conducted which noted that muscle strength was 5/5 for biceps, triceps, wrist extensors, finger extensors, finger flexors, hip flexors, knee extension, knee flexion and ankle dorsiflexion, plantar flexion, able to walk on heel toes, unable to walk in tandem. Reflex exam was 2/2. Sensory exam, sensation to light touch is Diminished in the lower extremities to the upper shins and the

palms. Pain and temperature sensation is diminished in the same areas. Able to feel vibration for 10/10 seconds at big toe (R/L) and 20/20 at thumbs. Romberg test is negative. The exam was notable for diminished sensation to pin/cold temperature in legs distal to upper shin with normal reflexes and strength. Several sensory responses in the hands were slightly low amplitude which could be related to a large fiber neuropathy, although alternatively focal neuropathies (working with his hands) could cause similar findings. EMG ordered and was essentially normal. A lumbar puncture was also ordered. An EMG was performed [REDACTED], which was essentially normal and concluded that there was no evidence of a diffuse large fiber polyneuropathy. The study was not sensitive to small fiber neuropathy.

The Petitioner was seen again by the neurologist on [REDACTED]. The lumbar puncture results were normal as were all of the labs and CT of chest, abdomen and pelvis. There were no new symptoms reported by Petitioner and reported stabilization of numbness and tingling. At the time of the office visit, the Petitioner was still working. The impression was 9-month history of pain and numbness in the bilateral lower extremities with progression to his chest face and arms. Neurologic exam is notable for diminished sensation to pin and cold temperature in the legs distal to the upper shin with slightly decreased reflexes. The evaluation had thus far been unrevealing. A note regarding the MRI of brain and C-spine notes mild cerebellar atrophy for age otherwise no brain or spine lesions to account for symptoms.

No further medical evidence was provided.

As previously noted, the Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Petitioner has presented objective medical evidence establishing that he does have some physical limitations on her ability to perform basic work activities. Accordingly, the Petitioner has an impairment, or combination thereof, that has more than a *de minimis* effect on the Petitioner's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Petitioner is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Petitioner's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The Petitioner alleges physical disabling impairments due to numbness and weakness in all extremities requiring use of a cane and medications for pain. A review of the applicable listing was made and Listing 11.14 Peripheral neuropathies was considered. This listing requires disorganization of motor function as described in 11.04B. 11.04B provides: B. Significant and persistent disorganization of motor function in two extremities, resulting in sustained disturbance of gross and dexterous movements, or gait and station (see 11.00C).

11.00© provides : C. *Persistent disorganization of motor function* in the form of paresis or paralysis, tremor or other involuntary movements, ataxia and sensory disturbances (any or all of which may be due to cerebral, cerebellar, brain stem, spinal cord, or

peripheral nerve dysfunction) which occur singly or in various combinations, frequently provides the sole or partial basis for decision in cases of neurological impairment. The assessment of impairment depends on the degree of interference with locomotion and/or interference with the use of fingers, hands and arms. The impairment requires paresis, defined as slight or incomplete paralysis which is not present, nor are tremors or other involuntary movements indicated in the medical evidence. Additionally the most relevant evidence offered by the neurologist did not establish abnormality due to EMG testing or lumbar puncture.

Based upon the medical evidence provided it is determined that while the evidence does indicate peripheral nerve dysfunction with regard to sensation, and pain, the interference with locomotion and use of finger, hands or arms, while affected does not meet the level required by the listing based upon the available medical evidence. Although Petitioner's treating doctors, family practice and pain management, find limitations they are not supported by objective medical evidence and testing. Both doctors also determined that the Petitioner could meet his needs in the home.

Therefore, the Petitioner cannot be found disabled, or not disabled, at Step 3. Accordingly, the Petitioner's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the Petitioner's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). 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 are 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.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967.

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 additional 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 (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty function 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 (e.g., 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.*

The Petitioner's prior work history consists of employment performing work in the making/designing and repairing jewelry as a master goldsmith. The Petitioner last worked in December 2014. This job required that the Petitioner sit for extended periods and use his fingers and hands for fine manipulation, which he can no longer do.

The Petitioner credibly testified he could no longer use his hand and fingers to perform the tasks necessary to design, repair jewelry as he drops tweezers due to lack of feeling in his hands. The Petitioner credibly testified that he can drive, grocery shop and do household chores including cooking, and cleaning which he performs slowly. Petitioner can dress himself and experiences fatigue. During the day, the Petitioner can watch TV and use the computer and visit with friends. The Petitioner uses a cane for balance, which is deemed necessary by his family practice doctor. In light of the Petitioner's testimony and medical records, and in consideration of the Occupational Code, the Petitioner's prior work is classified as skilled sedentary work.

At the hearing, the Petitioner testified that he could walk a block, could stand for 10 minutes and sit for 10 or 15 minutes. He could not perform a squat and uses a shower chair. He experiences his arms falling asleep bilaterally. He cannot bend over to tie his shoe. Petitioner also experiences chronic pain in his legs and feet. The Petitioner has sleep interruptions several times a night due to ongoing pain.

If the impairment or combination of impairments does not limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of the Petitioner's testimony, medical records, and current limitations, it is found that the Petitioner is not able to return to past relevant work due in large part because he cannot use of his hands for fine manipulation and simple grasping. Thus, the fifth step in the sequential analysis is required.

In Step 5, an assessment of the individual's residual functional capacity 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). The Petitioner was [REDACTED] years old at the time of the hearing, and thus, is considered to be an individual of younger age for MA purposes. The Petitioner also completed the 12th grade. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Petitioner to the Department to present proof that the Petitioner has the residual capacity to 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). 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).

Based upon the foregoing objective medical evidence outline above, particularly the limitations imposed by the Petitioner's treating doctor(s), it would appear that deterioration is noted and limitations were imposed, however, as noted before the basis for these findings by the family practice doctor who is a treating doctor and (who is not a neurologist) and the pain management doctor who is a pain specialist are not supported

by objective medical evidence and the neurologist's evaluations do not support a finding for the symptoms the Petitioner is experiencing.

This Administrative Law Judge does take into account Petitioner's complaints of pain and that he is prescribed medications for pain that alleviate some of his pain, however, in light of the lack of updated neurological testing which substantiates the pain the testing evidence available does not support pain based upon the several neurological visits and evaluations. Further, it does appear that current prescribed pain medications have significantly improved Petitioner's pain levels. Subjective complaints of pain where there are objectively established medical conditions that can reasonably be expected to produce the pain must be taken into account in determining a Petitioner's limitations. *Duncan v Secretary of HHS*, 801 F2d 847, 853 (CA6, 1986); 20 CFR 404.1529-416.929.

The evaluations and medical opinions of a "treating" physician is "controlling" if it is well-supported by medically acceptable clinical and laboratory diagnostic techniques and is not inconsistent with the other substantial evidence in the case record. 20 CFR § 404.1527(d)(2). Deference was given by the undersigned to objective medical testing and clinical observations of the Petitioner's treating physician that completed the DHS-49 which place the Petitioner at sedentary as no limitations by either doctor completing the DHS-49 noted restrictions with sitting. Sedentary work requires lifting 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.

Also, it should be noted that it is specifically determined that Petitioner's alcohol abuse is in remission and that it is determined by the undersigned that alcohol is not material.

In consideration of the foregoing and in light of the medically objective physical limitations and pain, it is found that the Petitioner is able to perform the full range of sedentary work activities as defined in 20 CFR 416.967(a).

After review of the entire record, and in consideration of the Petitioner's age, education, work experience and residual functional capacity, it is found that the Petitioner **is not disabled** for purposes of the MA-P program at Step 5. After a review of the Petitioner's medical records, reports from his treating physician, and Petitioner's own testimony, Petitioner has failed to establish limitations which would compromise his ability to perform sedentary work activities on a regular and continuing basis.

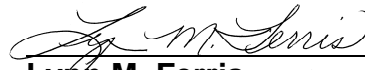
In consideration of the foregoing and in light of the objective limitations, it is found that the Petitioner does retain the residual functional capacity for work activities on a regular and continuing basis to meet at the physical and mental demands required to perform sedentary work pursuant to rule 201.21. After review of the entire record, the Findings of Fact and Conclusions of Law, and in consideration of the Petitioner's age, education,

work experience and residual functional capacity, it is found that the Petitioner is not disabled for purposes of the MA-P program at Step 5.

The Petitioner may reapply at any time.

DECISION AND ORDER

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



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **1/22/2016**

LMF/jaf

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:

