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

IN THE MATTER OF:

	Reg. No.:	15-008629
	Issue No.:	4009
	Case No.:	
	Hearing Date:	July 23, 2015
	County:	Sanilac County DHS

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 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included 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 June 30, 2014, Claimant applied for SDA benefits.

2. Claimant's only basis for SDA benefits was as a disabled individual.

3. On May 4, 2015, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 15-17).

4. On June 8, 2015, MDHHS denied Claimant's application for SDA benefits and mailed a Notice of Case Action (Exhibits 8-9) informing Claimant of the denial.

5. On July 3, 2015, Claimant requested a hearing disputing the denial of SDA benefits (see Exhibits 10-11).

6. As of the date of the administrative hearing, Claimant was a ██ year old female.

7. Claimant has not earned substantial gainful activity since before the first month of benefits sought.

8. Claimant's highest education year completed was the ███ grade.

9. Claimant has no history of employment amounting to substantial gainful activity from the past 15 years.

10. Claimant alleged disability based on restrictions related to diagnoses of COPD, thrombocytopenia, memory loss, skin infections, hepatitis C, herpes, scoliosis, right shoulder pain, and an enlarged liver.

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 noted special arrangements in order to participate in the hearing. Claimant specifically noted that she may need items explained to her during the hearing due to memory loss and confusion. The hearing was conducted in compliance with Claimant's stated need for accommodation.

Claimant's hearing request noted a dispute of Family independence Program (FIP) (cash) benefits (see Exhibit 11). FIP is an MDHHS program available to caretakers of minor children and pregnant women. Claimant testimony conceded that she was not eligible for FIP benefits. Claimant testified that she only intended to dispute a denial of SDA benefits. MDHHS was not confused by Claimant's request to dispute FIP eligibility and was prepared to defend a denial of Claimant's SDA application denial. It is found that Claimant intended to dispute her SDA eligibility 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 CRF 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 2014 monthly income limit considered SGA for non-blind individuals is $1,070.

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 F2d 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 a summary of presented medical documentation.

Hospital clinic notes (Exhibits 112-113) dated March 2, 2012 were presented. Treatment for lower back pain, herpes, face rash, stress syndrome, and scoliosis was noted.

Physician office visit notes (Exhibits 118-120) dated February 13, 2014 were presented. It was noted that Claimant reported the following problems: itchy skin lesions, difficulty with breathing at night, hot flashes, and fatigue. Assessments of the following were noted: lower back pain, sinusitis, COPD, anxiety and depression, and rash.

A pathology report (Exhibit 83) dated March 10, 2014 was presented. A post-operative diagnosis of hemorrhoids was noted.

Physician office visit notes (Exhibits 114-116) dated April 28, 2014 were presented. It was noted that Claimant complained of a leg rash, ongoing since February 2014. An assessment of a rash and non-specific skin eruption was noted.

A bilateral venous duplex ultrasound report (Exhibit 111) dated April 30, 2014 was presented. It was noted there was no sonographic evidence of deep vein thrombosis.

An echocardiography report (Exhibits 79-80; 108) dated May 5, 2014 was presented. A report summary noted normal left ventricular systolic function and no significant valvular disease appreciated.

An x-ray report of Claimant’s chest (Exhibit 81) dated May 5, 2014 was presented. An impression of lung volumes compatible with COPD was noted.

An ultrasound report (Exhibit 88; 106-107) of Claimant’s liver dated May 21, 2014 was presented. A conclusion of mild hepatomology was noted. The findings were noted to be stable compared to previous radiology.

An x-ray report of Claimant’s right shoulder (Exhibit 94; 104-105) dated June 8, 2014 was presented. An impression of an acute fracture was noted.

An x-ray report of Claimant’s right shoulder (Exhibit 95; 102-103) dated July 7, 2014 was presented. An impression of an early healing of a humeral fracture was noted.

An x-ray report of Claimant’s right shoulder (Exhibit 99) dated July 7, 2014 was presented. An impression of minimal callus formation at the fracture site was noted.

Neurologist office visit notes (Exhibits 41-47) dated August 18, 2014 were presented. It was noted that Claimant reported mild-to-moderate memory loss and cognitive impairment. It was noted that Claimant reported daily headaches which began after a previous head injury. Claimant also reported back pain, joint pain, hepatitis C,

thrombocytopenia, and various other ailments. Claimant's gait was noted to be unsteady and with poor balance. Generalized muscular weakness with neuromyopathy in legs was noted. Stiffness and tenderness upon palpation was noted in Claimant's cervical, thoracic, and lumbar spine. Rashes were noted as absent. Assessments of muscle spasms, headaches, sleep disturbance, and disc degeneration was noted. A plan to order a brain MRI and back x-rays was noted.

Physician office visit notes (Exhibit A1) dated September 11, 2014 were presented. It was noted that Claimant complained of an ongoing problem with itchy legs and a facial rash; the noted severity was 2/10. Diagnoses of impetigo, chronic fatigue, herpes, hepatitis C, thrombocytopenia, ETOH abuse, liver problem, and depression were noted.

A brain MRI report (Exhibits 54-55) dated September 12, 2014 was presented. An impression of several small cerebral white matter lesions was noted. The lesions were noted to be related to early chronic microvascular ischemic disease or migraine headaches.

Neurologist office visit notes (Exhibits 48-53) dated September 30, 2014 were presented. It was noted that Claimant had manifestations of chronic fatigue syndrome.

A Psychosocial Assessment (Exhibits 32-37) dated December 8, 2014 was presented. The assessment was completed by a social worker with an unstated history with Claimant. Claimant reported that her husband committed suicide one year earlier. A history of alcohol abuse was noted. Ongoing tobacco abuse was noted. Mental status examination notes included the following: moderate depression and anxiety, normal speech, appropriate affect, fair judgment, average intelligence, appropriate appearance, impaired memory, and logical thought process. Axis I diagnoses of major depression and alcohol abuse were noted. Claimant's GAF was noted to be 62. A recommendation of individual therapy to address depression, health, and substance abuse issues was noted.

An internal medicine examination report (Exhibits 18-25) dated January 17, 2015 was presented. The report was noted as completed by a consultative physician. Claimant reported complaints of lower back pain radiating to her feet causing tingling. Claimant also reported a history of COPD and a history of pneumonia-related hospitalizations. Claimant reported recent fatigue and falls. A history of hepatitis C was also noted. Various treatment records were noted as reviewed. Physician observations of Claimant included the following: comfortable while sitting, adequate effort, normal dexterity, and no trouble getting on and off the examination table. An S-shaped thoracic spine scoliotic deformity was noted. Claimant's SpO2 level was noted to be 98.5%. Positive seated and supine straight-leg raising tests on the left were noted. All tested ranges of motion were normal. Diagnoses of lower back pain and Hepatitis C were noted. The examining physician concluded that Claimant could frequently stand and walk during an 8-hour workday. No sitting limitations were noted. Claimant's posture motions (e.g. bending, stooping, squatting, crouching and crawling) were noted as restricted to occasional.

A Physical Residual Functional Capacity Questionnaire (Exhibits 26-30) dated March 3, 2015 was presented. The questionnaire was completed by a treating physician with an approximate 5 year history of treating Claimant. Diagnoses of chronic hepatitis C, depression, osteoarthritis, alcohol abuse, adjustment disorder, and neuropathy were noted. Reported symptoms included leg tingles and numbness, dyspnea, sadness, anxiety, grief, abdominal pain, and fatigue. It was noted that Claimant's liver was enlarged. Claimant's physician opined that Claimant was incapable of low-stress jobs.

A spine densitometry report (Exhibit A6) dated March 17, 2015 was presented. The report contained no physician analysis.

A Psychotherapy Treatment Plan (Exhibits A7-A8) dated March 16, 2015 was presented. The report was completed by a social worker. It was noted that Claimant reported excessive worrying, difficulty with concentration, intrusive thoughts, and poor memory. Diagnoses of ADHD, anxiety disorder, and a traumatic brain injury were noted.

A handwritten physician statement (Exhibit A9) dated June 24, 2015 was presented. Claimant's physician stated that her blood test for hepatitis C and cryoglobulins was positive. A recommendation of hepatitis C treatment and follow-up with a liver specialist was noted.

Claimant testified that she contracted hepatitis C from a blood transfusion in 1983. Claimant speculated that the disease is progressing and causing multiple body rashes on her body. Claimant's MDHHS specialist testified that she witnessed Claimant with oozing body rashes in her prior dealings with Claimant. Claimant presented black and white copies of photographs (Exhibits 135-136) to support her testimony.

Claimant's presented photos were of little probative value as they were neither authenticated nor dated. Presented documents noted a diagnosis of hepatitis C and previous treatment for body rashes. Presented evidence did not demonstrate any progression in hepatitis C or skin rash treatment that would impact claimant's ability to be employed. Most records did not even note a complaint of skin rash. One of the few that did characterized the severity as 2/10. Claimant testimony also speculated that she was diagnosed with infantigo. The diagnosis was not apparent in any presented records though a diagnosis of impetigo (a functionally equivalent diagnosis) was noted once. The diagnosis is not known to be permanent. Thus, there was insufficient evidence to infer that impetigo causes impairments expected to last 90 days. Claimant failed to establish restrictions related to skin rashes caused by hepatitis C or impetigo.

Claimant testified that she has productive cough all the time. It is notable that Claimant testified that she continues to smoke ¾ per pack of cigarettes per day. Claimant testimony implied restrictions related to COPD. A diagnosis of COPD was verified. Pulmonary function testing was not presented. The severity of COPD was not apparent.

A diagnosis of COPD justifies an inference of slight restrictions to Claimant's ability to lift/carry. Other restrictions cannot be inferred from the mere diagnosis.

A diagnosis of thrombocytopenia was verified as of August 20, 2014. The disease is understood to cause a platelet deficiency in a person's bloodstream. Symptoms of the disease include fatigue and leg bruising. Claimant testified that she does not take any medication for the disease. Claimant testified that she was told by her physician that all she can do is elevate her legs and try to limit stress.

Though thrombocytopenia is a diagnosis which could reasonably cause fatigue, a recurrent complaint of Claimant, the diagnosis was not documented as a cause. There is also question whether the problem is as severe as Claimant describes. Claimant testified that she not take any medication for the problem. Claimant testified that she has not undergone a blood transfusion. It is also notable that alcohol abuse appears to exacerbate thrombocytopenia. Claimant was diagnosed with an alcohol abuse problem as recently as December 2014. The evidence was suggestive that Claimant may be fatigued, but not to the point that completion of a workday is unreasonable.

Claimant alleged lower back pain. Diagnoses of scoliosis and disc degeneration were verified. Again, the degree of Claimant's problem was not well verified. Spinal testing was performed, however, no physician analysis accompanied the testing. Without physician analysis, the significance of testing results cannot be determined.

Presented records established some degree of concentration and memory restrictions. Presented documents also established some degree of ambulation and lifting/carrying restrictions. All restrictions were established to last 90 days or longer.

It is found that Claimant established significant impairment to basic work activities for a period 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 joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of shoulder pain. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on a diagnosis for scoliosis. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for chronic skin infections (Listing 8.04) was considered. The listing was rejected due to a failure to establish extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing prescribed treatment.

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.

Claimant says she started training for a full-time job in 2014. Claimant testified she started 5 days of training before her skin lesions prevented further employment. The employment was not considered at this step in the analysis because it did not result in SGA.

Claimant testified that she took care of her husband for the last 20 years. She testified that the last 10 years was essentially a full-time job, though she was never paid for her care. Claimant’s duties as a caretaker to her husband may not be considered in a fourth step analysis because the care was unpaid.

Claimant testified that says she used to garden and sell her produce. Claimant testified that some months her income exceeded SGA income limits. Claimant testified she is physically unable to do the planting, carrying produce, and bending. The credibility of Claimant’s testimony will be reserved for the fifth and final step of the analysis.

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 light employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

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.*

Claimant's physician noted several restrictions on a Physical Residual Functional Capacity Questionnaire dated March 3, 2015. Claimant was restricted to walking of less than one block. Claimant was restricted to 30 minute periods of sitting and 10 minute periods of standing. Claimant's physician restricted Claimant's standing to less than 2 hours per 8 hour workday. Claimant's physician opined that Claimant would require 10-15 breaks after every 5-10 minutes of any workday. It was noted that Claimant's legs required elevation above her heart at least 20 minutes of every hour. Claimant was restricted to occasional lifting/carrying of less than 10 pounds, rare lifting/carrying of 10 pounds, and no lifting/carrying of 20 pounds or more. It was noted that Clamant could not climb ladders and that twisting and stair climbing was restricted to rare occasions. Claimant was noted to be likely absent from work more than 4 days per month.

The basis to support restrictions was noted to be an enlarged liver, distended abdomen, and flat mood. A distended abdomen, mildly enlarged liver, and flat mood, by themselves, are not particularly indicative of stated restrictions.

Diagnoses of scoliosis, thrombocytopenia, COPD, neuropathy, enlarged liver, and hepatitis C were verified. Presented evidence verified that Claimant experiences skin infections, fatigue, and various psychological impairments related to a brain injury. A poor gait and leg muscle weakness were documented in August 2014. Fatigue was

consistently noted as a complaint. The combination of Claimant's diagnoses are sufficient to establish that Claimant is unable to perform the requirements of light employment or her previous gardening/produce sales employment.

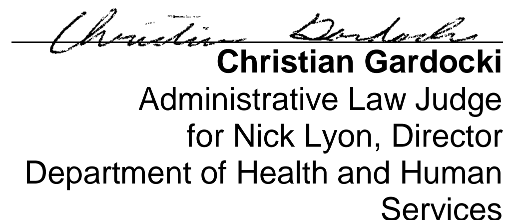
Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school with no direct entry into skilled employment), employment history (unskilled), Medical-Vocational Rule 201.12 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that MDHHS improperly found Claimant to be not disabled for purposes of SDA benefits.

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 June 30, 2014;
(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: July 30, 2015

Date Mailed: July 30, 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: