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.: 15-012888
Issue No.: 4009
Agency Case No.: [redacted]
Hearing Date: September 14, 2015
County: Wayne (57) Conner

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, an in-person hearing was held on September 14, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner [redacted]. [redacted], the Petitioner's Authorized Hearing Representative (AHR), also appeared on Petitioner's behalf. A witness, [redacted] also appeared. The Department of Health and Human Services (Department) was represented by [redacted], Eligibility Specialist.

ISSUE

Whether the Department properly determined that Petitioner was no longer disabled for purposes of the State Disability Assistance (SDA) benefit program?

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional medical records. The documents were received. The record closed on October 29, 2015; and the matter is now before the undersigned for a final determination.

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of SDA benefits.

2. In July 2015, Petitioner's updated medical packet was forwarded to the Medical Review Team (MRT) for review of her ongoing eligibility for SDA benefits based on allegations of mental impairment due to Post Traumatic Stress Disorder, (PTSD), and Schizoaffective Disorder. Physical impairments including back pain and chest pain were also alleged.

3. On July 2, 2015, MRT found Petitioner no longer disabled (Exhibit A, pp. 7-8).

4. On July 6, 2015, the Department sent Petitioner a Benefit Notice notifying her that her SDA case would close effective August 1, 2015, because MRT had denied her claim (Exhibit A, pp. 5-6).

5. On July 13, 2015, the Department received Petitioner's timely written request for hearing concerning the closure of her SDA case (Exhibit A, p. 3).

6. Petitioner's application with the Social Security Administration continued to be pending as of the hearing date (Exhibit A, pp. 29-30).

7. Petitioner alleged physical disabling impairment due to chest and back pain and weakness in lower extremities requiring use of a cane.

8. The Petitioner alleged mental disabling impairment due to Post Traumatic Stress Disorder,(PTSD) and Schizoaffective Disorder.

9. At the time of hearing, Petitioner was [redacted] years old with a [redacted], birth date; she was 5'3" in height and weighed about 195 pounds.

10. Petitioner has a 9th grade education and a GED. Petitioner has an employment history of work having last worked in 2009 assembling auto parts, inspection and packaging. The Petitioner worked in a commercial laundry hanging laundry on machines, pressing, sorting and organizing. The Petitioner also worked as a fast-food cook, cashier and cleanup; she was required to lift 50 pounds occasionally.

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 Health and Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

A disabled person is eligible for SDA. BEM 261 (July 2014), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment lasting, or expected to last, at least ninety days which meets federal SSI disability standards,

meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Once an individual has been found disabled, continued entitlement to benefits based on a disability is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994(a). If the individual is not engaged in substantial gainful activity, the trier of fact must apply an 8-step sequential evaluation in evaluating whether an individual's disability continues. 20 CFR 416.994. The review may cease and benefits may be continued at any point if there is sufficient evidence to find that the individual is still unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5). In this case, Petitioner has not engaged in SGA after 2009 and at any time since she became eligible for SDA. Therefore, his disability must be assessed to determine whether it continues. The 8 steps for reviewing whether a disability continues are as follows:

> **Step 1.** Does the individual have an impairment or combination of impairments which meets or equals the severity of an impairment listed in 20 CFR Appendix 1 of subpart P of part 404? If so, the disability will be found to continue. 20 CFR 416.994(b)(5)(i).
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> **Step 2.** If not, has there been medical improvement as defined in paragraph (b)(1)(i) of 20 CFR 416.994? If there has been medical improvement as shown by a decrease in medical severity, go to Step 3. If there has been no decrease in medical severity, there has been no medical improvement unless an exception in Step 4 applies.
>
> **Step 3.** If there has been medical improvement, is it related to the individual's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv); *i.e.*, was there an increase in the individual's residual functional capacity (RFC) based on the impairment(s) that was present at the time of the most recent favorable medical determination? If medical improvement is *not* related to the individual's ability to do work, the analysis proceeds to Step 4. If medical improvement *is* related to the individual's ability to do work, the analysis proceeds to Step 5.
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> **Step 4.** If it was found at Step 2 that there was no medical improvement or at Step 3 that the medical improvement is not related to the individual's ability to work, the exceptions in 20 CFR 416.994(b)(3) and (b)(4) are considered. If none of them apply, the disability will be found to continue. If an exception from the first group of exceptions to medical improvement applies, the analysis proceeds to Step 5. If an exception from the second group of exceptions to medical improvement applies, the disability is found to have ended. The second group of exceptions to medical improvement may be considered at any point in this process.

Step **5.** If medical improvement is shown to be related to an individual's ability to do work or if one of the first group of exceptions to medical improvement applies, **all** the individual's current impairments in combination are considered to determine whether they are severe in light of 20 CFR 416.921. This determination considers all the individual's current impairments and the impact of the combination of these impairments on the individual's ability to function. If the RFC assessment in Step 3 shows significant limitation of the individual's ability to do basic work activities, the analysis proceeds to Step 6. When the evidence shows that all the individual's current impairments in combination do not significantly limit the individual's physical or mental abilities to do basic work activities, these impairments will not be considered severe in nature and the individual will no longer be considered to be disabled.

Step 6. If the individual's impairment(s) is severe, the individual's current ability to do substantial gainful activity is assessed in accordance with 20 CFR 416.960; i.e., the individual's RFC based on all current impairments is assessed to determine whether the individual can still do work done in the past. If so, disability will be found to have ended.

Step 7. If the individual is not able to do work done in the past, the individual's ability to do other work given the RFC assessment made under Step 6 and the individual's age, education, and past work experience is assessed (unless an exception in 20 CFR 416.994(b)(5)(viii) applies). If the individual can, the disability has ended. If the individual cannot, the disability continues.

Step 8. Step 8 may apply if the evidence in the individual's file is insufficient to make a finding under Step 6 about whether the individual can perform past relevant work. If the individual can adjust to other work based solely on age, education, and RFC, the individual is no longer disabled, and no finding about the individual's capacity to do past relevant work under Step 6 is required. If the individual may be unable to adjust to other work or if 20 CFR 416.962 may apply, the individual's claim is assessed under Step 6 to determine whether the individual can perform past relevant work.

Step 1

Step 1 in determining whether an individual's disability has ended requires the trier of fact to consider the severity of the impairment(s) and whether it meets or equals a listed impairment in Appendix 1 of subpart P of part 404 of Chapter 20. 20 CFR 416.994(b)(5)(i). If a Listing is met, an individual's disability is found to continue with no further analysis required.

In the present case, Petitioner alleges physical disability due to back and chest pain resulting from a gunshot wound and weakness in her lower extremities. The Petitioner uses a cane, which has been found medically necessary.

The Petitioner also alleges mental disability due to PTSD and Schizoaffective Disorder. The medical evidence presented at the hearing and in response to the Interim Order concerning the disabilities alleged by Petitioner is summarized below.

The Petitioner provided a Psychiatric/Psychological Examination Report dated [redacted], completed by her treating Psychiatrist. The report noted that Petitioner used a cane to ambulate due to bilateral leg weakness and back pain. The report notes that Petitioner last worked in 2009 and has never been able to hold a job for more than a year. The Petitioner began receiving mental health services since December 2009 until October 2012 with another mental health care provider. She transferred to her current mental health provider in October 2012 and has been attending consistently. The precipitating event was a gunshot wound to her chest by a boyfriend in [redacted]. She developed PTSD symptoms. She has a history of 10 suicide attempts but has never been psychiatrically hospitalized. The report noted visible scars on her hands and wrists. At the time of the exam, the Petitioner presented with a depressed affect and some anxiety. During the exam, she exhibited poor focus and concentration as well as memory impairment. The patient reported daily crying spells and mood swings. The Petitioner is assisted with cooking, cleaning, laundry and grocery shopping by her son and daughter. She is also assisted with bathing and dressing at times. The patient only leaves the home when she has to for medical appointments and is afraid to be in public and crowds. She experiences panic attacks if she hears sounds resembling gunshot sounds.

Based upon the examination, the Petitioner's current diagnosis is Schizoaffective Disorder and Post-Traumatic Stress Disorder. Her GAF score is 55. A Mental Residual Functional Capacity Assessment was completed as well during the examination on [redacted]; the results follow.

Understanding and Memory: The Petitioner was markedly limited in her ability to understand and remember detailed instructions but moderately limited to remember work-like procedures and locations.

Sustained Concentration and Persistence: the Petitioner was markedly limited in her ability to carry out detailed instructions and maintain attention and concentration for extended periods. The Petitioner was not significantly limited in ability to carry out one- or two-step instructions. The Petitioner was markedly limited in her ability to perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances. The Petitioner was markedly limited in the ability to sustain an ordinary routine without supervision and to work in coordination with or proximity to others without being distracted by them. Lastly, the Petitioner was markedly limited in her ability to complete a normal workday and worksheet without interruptions from psychological based symptoms and to perform at a consistent pace without an

unreasonable number and length of rest periods. The Petitioner was moderately limited in ability to make simple work-related decisions.

Social Interaction: The Petitioner was markedly limited in her ability to interact appropriately with the general public, ability to accept instructions and respond appropriately to criticism from supervisors; ability to get along with co-workers or peers without distracting them or exhibiting behavioral extremes. The Petitioner was moderately limited in ability to ask simple questions or request assistance. The Petitioner was not significantly limited in her ability to adhere to basic standards of neatness and cleanliness.

Adaptation. The Petitioner was markedly limited in her ability to travel to unfamiliar places, and moderately limited to set realistic goals, or make plans independently of others and the ability to respond appropriately to change in work setting. The Petitioner was not significantly limited in ability to be aware of normal hazards and take appropriate precautions. In conclusion, the doctor found that Petitioner's diagnosis interfered with her ability to concentrate, stay on task and focus.

A Mental Residual Functional Capacity Assessment was performed on [redacted], by the Petitioner's treating psychiatrist. The evaluation was as follows:

Understanding and Memory: The Petitioner was moderately limited in an all categories including the ability to understand and remember detailed instructions, work-like procedures, ability to understand detailed instructions and remember one- or two-step instructions.

Sustained Concentration and Persistence: the Petitioner was moderately limited in her ability to carry out detailed instruction as well as simple one- or two-step instructions, and maintain attention and concentration for extended periods. The Petitioner was moderately limited in ability to carry out one- or two-step instructions. The Petitioner was moderately limited in her ability to perform activities within a schedule, maintain regular attendance and be punctual within customary tolerances. The Petitioner was markedly limited in the ability to sustain an ordinary routine without supervision and to work in coordination with or proximity to others without being distracted by them. Lastly, the Petitioner was markedly limited in her ability to complete a normal workday and worksheet without interruptions from psychological based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods.

Social Interaction: The Petitioner was moderately limited in her ability to interact appropriately with the general public, ability to accept instructions and respond appropriately to criticism from supervisors; markedly limited in the ability to get along with co-workers or peers without distracting them or exhibiting behavioral extremes. The petitioner was not significantly limited in ability to ask simple questions or request assistance. The Petitioner was not significantly limited in her ability to adhere to basic standards of neatness and cleanliness.

Adaptation. The Petitioner was moderately limited in her ability to travel to unfamiliar places, The Petitioner was markedly limited in the ability to set realistic goals, or make plans independently of others and the ability to respond appropriately to change in work setting. The Petitioner was moderately limited in ability to be aware of normal hazards and take appropriate precautions. In conclusion, the doctor found that Petitioner's diagnosis interfered with her ability to concentrate, stay on task and focus.

The evaluation noted that the Petitioner could perform activities of daily living independently. pp.14

The psychiatric treatment record dated [redacted], notes that the patient has been having increased auditory and visual hallucinations. There was a note that the Petitioner had missed taking some of her medications. Notes that Petitioner continues to abuse of alcohol despite having recurrent problems associated with use. The Notes do not indicate the frequency or amount of use as the notes are conflicting and unclear. The doctor also notes claims of auditory hallucinations but is unable to elaborate on experiences; there are no reported symptoms of clinical depression during last year, nor have there been signs. She has claimed mood labiality; however, her testimony is suspicious. "She is known to use malingering so as to become approved for SSI. The Petitioner reported that she occasionally drinks despite reporting that she continues to have great concern about the incident.

The Petitioner was seen by her therapist on [redacted], and was noted as alert, cooperative, verbal, engaged, calm, appropriate mood/affect, appropriately groomed and dressed, receptive. The therapist arranged for transportation for food resource from [redacted]. The notes indicate no reported alcohol use within last 30 days and also notes unspecified. The therapist found that Petitioner met the criteria for dependence; preoccupation with use and or obtaining alcohol; withdrawal or withdrawal avoidance behaviors evident; use result in avoidance or neglect of essential life activities. The Petitioner is socially isolated and lacks motivation to become involved. The exam notes indicate that Petitioner has delays in reading and reading comprehension. The therapist also noted that Client does not participate in full disclosure concerning substance abuse; and Client is prescribed psychotropic medication, which she says she takes daily. However, Client has the tendency to malinger. This behavior was also noted by Disability Examiner.

The Petitioner was seen for an annual psychiatric evaluation on [redacted], at which time her GAF score was 60. She presented for the exam as fairly dressed, speech was clear and logical and denied any auditory or visual hallucinations. Ambulation and gait was good. The diagnosis was that Petitioner was negative for depression, Schizoaffective Disorder active since [redacted] Post Traumatic Stress Disorder active and alcohol abuse, active. At a physical examination performed the same day, high blood pressure was noted , chronic back pain and gunshot wound [redacted] pain.

A psychiatric exam from the Petitioner's mental health care provider was performed on [redacted]. At the time of the examination, the Petitioner told her doctor her moods

are changing “from one minute to the next,” no active suicidal thoughts were noted. Petitioner still hears occasional voices, but they are better than before. The Petitioner appeared well dressed and groomed. The exam notes indicated that memory was intact, judgment was fair, thought content unremarkable, able to focus and alert. Auditory and visual hallucinations were still present but less. Emotional state/affect was appropriate, presentation during interview was unremarkable, as was stream of mental activity, (normal) and characteristic of speech. The GAF score was 55. The diagnostic summary notes the Petitioner is stable and has no side effects from medications. The diagnosis was Schizoaffective Disorder.

A Medical Examination Report was completed on [redacted]. The diagnosis was chronic pain and goiter. The report noted use of a cane to support Petitioner’s leg weakness. The clinical impression was that the medical conditions were stable, and were expected to last more than 90 days. Limitations were imposed restricting the Petitioner from lifting any weight. The Petitioner was evaluated as capable of standing less than 2 hours in an 8-hour work day and sitting less than 6 hours in an 8-hour work day. The Petitioner had full use of her hands but was evaluated as unable to operate foot controls with either foot. The clinical findings to support the limitations noted chronic pain and lower extremity weakness. The Doctor also noted poor concentration and memory loss. The Petitioner was noted as needing assistance getting out of the tub and with housework.

On [redacted], a consultative Medical Examination Report was conducted. The complaints presented were body ache due to trauma, goiter, and weakness. The examiner noted that an ambulatory aid (cane) was required due to lower extremity weakness. The Petitioner was evaluated as stable and limitations were imposed, which were expected to last 90 days or more. The Petitioner’s limitations included that she could stand or walk less than 2 hours in an 8-hour workday. Petitioner needed a cane for walking and could frequently carry 10 pounds 2/3 of an 8-hour day. The doctor noted physical weakness in both lower limbs and pain. The doctor noted no mental limitations. No restrictions were noted with sitting.

The medical evidence presented does **not** show that Petitioner’s impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Listing 1.04 (disorders of the spine), and Listing 12.03 schizophrenic, paranoid and other psychotic disorders were considered. Because the medical evidence presented in this case was insufficient to meet or equal any of the listings considered, a disability is not continuing under Step 1 of the analysis, and the analysis proceeds to Step 2.

Step 2

If the impairment(s) does not meet or equal a Listing under Step 1, then Step 2 requires a determination of whether there has been medical improvement as defined in 20 CFR 416.994(b)(1). 20 CFR 416.994(b)(5)(ii). If there is medical improvement, the analysis proceeds to Step 3. If there is no medical improvement, the analysis proceeds to Step 4. **20 CFR**

Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most favorable medical decision that the individual was disabled or continues to be disabled. 20 CFR 416.994(b)(1)(i). If no medical improvement is found, and none of the exceptions listed below in Step 4 applies, then an individual's disability is found to continue.

In this case, the Department testified that Petitioner had been initially approved for SDA by MRT but failed to clearly identify what medical evidence was relied upon in the initial finding that Petitioner was disabled. It appears the Petitioner was first found disabled for SDA purposes in [redacted]. Notes in the file also indicate that annual reviews were not conducted. Exhibit B, pp. 1 and 6.

A review of the medical evidence presented fails to establish any medical improvement in Petitioner's condition over the course of the last year and a-half. To the contrary, Petitioner credibly testified that she still experiences loss of concentration and focus and loses track of what she is doing, such that, she does not prepare her meals to avoid burning the food. Her daughter often reminds her to take her medications. She is helped with shopping, and needs help getting in and out of the shower and sometimes with dressing. The Petitioner credibly testified that she has daily crying spells, hears voices and is hesitant to go out in public due to her fear and paranoia with regard to social interaction. The Petitioner's testimony regarding her symptoms is supported by the most recent psychiatric evaluation. During the hearing, the undersigned noted that Petitioner could not stay focused, would forget simple questions, became tearful several times, spoke very slowly and was unable to make eye contact.

It should be noted that in [redacted] concern regarding alcohol use appears in the psychiatric treatment records with no prior mention of this problem. Nor does this symptom appear as a diagnosis in the [redacted], review. The notes are unclear and unsupported by testing or history. Additionally, the Petitioner credibly testified that she does not use alcohol or illegal drugs. Thus, it cannot be concluded that alcohol is a material contributing factor in the Petitioner's current mental illness.

The last and only MRT review until the current one was dated [redacted]. Exhibit B, p. 1-2. The only medical information prior to this examination was a Psychiatric Exam done on [redacted]. Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most favorable medical decision that the individual was disabled or continues to be disabled. 20 CFR 416.994(b)(1)(i). For purposes of medical improvement analysis, the [redacted], medical information will be used as that which was present at the time of the MRT December 2012 Decision.

The medical information was reviewed for July 2010 and is summarized as follows:

The exam notes that Petitioner's attention and calculation are impaired. Impulse control and decision making is fair. Petitioner has mood swings and exhibits mania to where she will engage in risky behaviors that are self-harming to depressive states that inhibit

her ability to complete activities of daily living including cooking cleaning and maintaining motivation.

At the time, the diagnosis was bipolar disorder and PTSD. A Mental Residual Functional Capacity Assessment was performed at the same time. As regards Understanding and Memory, the Petitioner was evaluated as not significantly limited in ability to remember locations and work-like procedures and ability to understand and remember one- or two-step instructions. Petitioner was evaluated as moderately limited in ability to understand and remember detailed instructions.

As regards Sustained Concentration and Persistence, the Petitioner was not significantly limited in ability to carry out simple one- or two-step instructions, ability to carry out detailed instructions. The Petitioner was markedly limited in ability to maintain attention and concentration for extended periods. The Petitioner was markedly limited in ability to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods. The Petitioner was not significantly limited in ability to perform activities within a schedule, maintain regular attendance and be punctual, ability to sustain an ordinary routine without supervision and make simple work related decisions.

As regards Social Interaction, the Petitioner was rated moderately limited in the following categories as regards her abilities: ability to accept criticism from supervisors and accept instructions, and ability to maintain socially appropriate behavior, and to adhere to basic standards of neatness and cleanliness. The Petitioner was not significantly limited in ability to interact appropriately with the general public; ask simple questions or request assistance. The Petitioner was not significantly limited in ability to get along with co-workers or peers without distracting them or exhibiting behavioral extremes.

As regards Adaptation, the Petitioner was not significantly limited in ability to respond to change in work setting, ability to travel in unfamiliar places or use public transportation and set realistic goals or make plans independently. The Petitioner was moderately limited in her ability to be aware of normal hazards and take appropriate precaution Exhibit B, pp. 11-15. This exam was conducted by the same treating doctor who completed the [redacted], evaluation referenced above.

After review of the medical evidence relied upon by MRT or SHRT in the earlier finding that Petitioner was disabled in 2012, the Department has failed to substantiate a decrease in the medical severity of the impairment(s) which was present at the time of the most favorable medical decision by MRT/SHRT. Thus, the evidence does not support a finding that there was a medical improvement in Petitioner's condition when compared to the [redacted], findings and evaluation of the same treating Psychiatrist.

Step 4

When there is no medical improvement, an assessment of whether one of the exceptions in 20 CFR 416.994(b)(5)(iv) applies is required. If no exception is applicable, disability is found to continue. *Id.*

The first group of exceptions to medical improvement (i.e., when disability can be found to have ended even though medical improvement has not occurred) found in 20 CFR 416.994(b)(3) are as follows:

(i) Substantial evidence shows that the individual is the beneficiary of advances in medical or vocational therapy or technology (related to the ability to work);
(ii) Substantial evidence shows that the individual has undergone vocational therapy related to the ability to work;
(iii) Substantial evidence shows that based on new or improved diagnostic or evaluative techniques the impairment(s) is not as disabling as previously determined at the time of the most recent favorable decision;
(iv) Substantial evidence demonstrates that any prior disability decision was in error.

There was no evidence presented at the hearing that any of the exceptions contained in sub paragraphs (i) through (iv) applied in this case. Thus, the Department did not present any evidence establishing that, from the date of review to the date of hearing, an exception under the first set of exceptions to medical improvement applied to Petitioner's situation.

The second group of exceptions to medical improvement are found in 20 CFR 416.994(b)(4) and are as follows:

(i) A prior determination was fraudulently obtained;
(ii) The individual failed to cooperated;
(iii) The individual cannot be located;
(iv) The prescribed treatment that was expected to restore the individual's ability to engage in substantial gainful activity was not followed.

If an exception from the second group listed above is applicable, a determination that the individual's disability has ended is made. 20 CFR 416.994(b)(5)(iv).

In this case, the Department has failed to establish that any of the listed exceptions in the second group of exceptions to medical improvement apply. Although MRT concluded in the DHS-49A that Petitioner was no longer disabled and made a credibility determination, there was no evidence presented in the medical file that Petitioner was referred to, or failed to follow, any prescribed treatment that was expected to restore her ability to engage in substantial gainful activity**.**

Because the evidence presented does not show a medical improvement and no exception under either group of exceptions at Step 4 applies, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds Petitioner has continuing disability for purposes of the SDA benefit program. Therefore, Petitioner's SDA eligibility continues; and the Department did not act in accordance with Department policy when it closed this SDA case.

DECISION AND ORDER

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

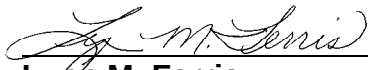
THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's SDA case effective August 1, 2015;

2. Issue supplements to Petitioner for any lost SDA benefits that she was entitled to receive from August 1, 2015, ongoing, if otherwise eligible and qualified in accordance with Department policy;

3. Notify Petitioner of its decision in writing; and

4. Review Petitioner's continued SDA eligibility in November 2017 in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/19/2015**

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: [redacted]