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.: 15-017447
Issue No.: 4009
Agency Case No.: [redacted]
Hearing Date: November 19, 2015
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 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 November 19, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. [redacted], Petitioner's friend, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [redacted], manager.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) eligibility for the reason that Petitioner 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 April 12, 2015, Petitioner applied for SDA benefits.

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

3. On August 24, 2015, the Medical Review Team (MRT) determined that Petitioner was not a disabled individual.

4. On September 3, 2015, MDHHS denied Petitioner's application for SDA benefits and mailed a Notice of Case Action informing Petitioner of the denial.

5. On September 11, 2015, Petitioner requested a hearing disputing the denial of SDA benefits.

6. As of the date of the administrative hearing, Petitioner was a 26-year-old female.

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

8. Petitioner's highest education year completed was the 11th grade.

9. Petitioner has no history of full-time employment.

10. Petitioner alleged disability based on restrictions related to gunshot wounds.

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).

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 Petitioner. Accordingly, Petitioner may not be considered for SDA eligibility without undergoing a medical review process (see BAM 815) which determines whether Petitioner 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. SDA differs in that a 90 day period is required to establish disability.

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

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

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

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

Petitioner credibly denied performing any employment since the date of the SDA application; no evidence was submitted to contradict Petitioner's testimony. Based on the presented evidence, it is found that Petitioner 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 durational 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 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 petitioners 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 requirements are 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 Petitioner'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.

An Initial Psychiatric Evaluation (Exhibits 23-25) dated July 28, 2014, was presented. Petitioner reported she was shot in the abdomen in 2007 (Petitioner testified she was in 12th grade at the time) by a former boyfriend. Petitioner reported sleep difficulties from nightmares and flashbacks of the incident. Petitioner reported anxiety, being scared of noises, irritability, and social isolation. Recurrent alcohol usage was noted. Mental status examination findings included anxious appearance, constricted affect, stable gait, normal motor activity, average intelligence, and intact memory. Axis I diagnoses of PTSD and MDD (recurrent and moderate) were noted. Petitioner's GAF was noted to be 60. A plan of outpatient therapy, psychotherapy, medication therapy, and case management services was noted.

A Medical Examination Report (Exhibits 1-3) dated June 9, 2015, was presented. The form was completed by a family practice physician with an unstated history of treating Petitioner. Petitioner's physician listed diagnoses of lumbago with radiculopathy, asthma, and major depressive disorder. Prescribed medications included Albuterol, Xanax, and Seroquel (and a 4th medication which could not be read). An impression was given that Petitioner's condition was deteriorating. Petitioner's right upper extremity

strength was noted to be 3-4/5. It was noted that Petitioner could not meet unspecified household needs.

A Psychiatric/Psychological Examination Report (Exhibits 4-6) dated July 8, 2015, was presented. The form was completed by a treating psychiatrist. The psychiatrist appeared to have some history with Petitioner, though the date Petitioner was stated to be first evaluated (September 30, 2015) followed the date that Petitioner was last examined (July 1, 2015). It was noted Petitioner was treated monthly. Reported symptoms included PTSD symptoms including flashbacks and isolative behavior. Prescribed medications included Seroquel, Celexa, and Xanax. It was noted Petitioner received individual therapy (twice per month) and medication reviews (monthly). Axis I diagnosis of PTSD and major depressive disorder (moderate) were noted. Petitioner's GAF was noted to be 60.

A Consolidated CDA-Continuity of Care Document (Exhibits A8-A10) dated July 9, 2015, was presented. Active problems of a body mass index between 39-39.9, lumbosacral spondylosis, and lower leg joint pain were noted. Medications included Cyclobenzine, Meloxicam, Ventolin, Citalopram, Quetiapine, and Xanax were noted.

Orthopedic office visit notes (Exhibit A7) were presented. It is presumed the form was completed shortly before August 6, 2015, because that appeared to be the date of Petitioner's next appointment. It was noted that Petitioner was diagnosed with knee pain and referred for physical therapy

A prescription form (Exhibit A3) dated August 28, 2015, was presented. It was noted Petitioner was prescribed a custom-hinged knee brace.

Neurologist office visit noted (Exhibit A1) dated November 12, 2015, was presented. It was noted Petitioner reported bilateral lower extremity pain (worse in the right knee). Active diagnoses of lumbar disc displacement, complex regional pain syndrome, mononeuritis multiplex, and lumbosacral radiculitis were noted. It was noted a CT of the lumbar and an EMG were completed.

A referral (Exhibit A2) dated November 12, 2015, was presented. It was noted that Petitioner's physician referred Petitioner to a physical therapist and hand rehabilitation center.

Petitioner testified while in the 12th grade, she was shot in the abdomen at close range. Petitioner testified the spray of the ammunition damaged her spine (causing nerve damage), lungs (causing asthma), intestines, pancreas, and gall bladder.

Petitioner testified she also has ongoing psychological problems from the incident. Petitioner testimony estimated she thinks about the incident approximately 10 times per day. Petitioner testified she is socially isolative and rarely leaves her residence. Petitioner testified she is paranoid about being hurt again.

Petitioner's friend testified that Petitioner often sits alone in her room due to depression. Petitioner's friend testified that Petitioner has crying spells 4-5 times per day.

Presented treatment history was supportive that Petitioner has physical and psychological restrictions. It is found that Petitioner established significant impairment to basic work activities for a period longer than 90 days. Accordingly, it is found that Petitioner established having a severe impairment and the disability analysis may proceed to Step 3.

The third step of the sequential analysis requires determining whether the Petitioner's impairment, or combination of impairments, is listed in 20 CFR Part 404, Subpart P, appendix 1. 20 CFR 416.920 (a)(4)(iii). If a petitioner's impairments are listed and deemed to meet the durational requirement, then the petitioner is deemed disabled. If the impairment is unlisted or impairments do not meet listing level requirements, then the analysis proceeds to the next step.

Petitioner alleged disability, in part, based on PTSD. PTSD is an anxiety disorder which is covered by Listing 12.06, which reads as follows:

> **12.06** ***Anxiety-related disorders***: In these disorders anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in both A and C are satisfied.
>
> A. Medically documented findings of at least one of the following:
>
> 1. Generalized persistent anxiety accompanied by three out of four of the following signs or symptoms:
>
> a. Motor tension; or
>
> b. Autonomic hyperactivity; or
>
> c. Apprehensive expectation; or
>
> d. Vigilance and scanning; or
>
> 2. A persistent irrational fear of a specific object, activity, or situation which results in a compelling desire to avoid the dreaded object, activity, or situation; or
>
> 3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week; or
>
> 4. Recurrent obsessions or compulsions which are a source of marked distress; or
>
> 5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress;
>
> AND
>
> B. Resulting in at least two of the following:

1. Marked restriction of activities of daily living; or
2. Marked difficulties in maintaining social functioning; or
3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration.

OR

C. Resulting in complete inability to function independently outside the area of one's home.

A Mental Residual Functional Capacity Questionnaire (Exhibits 19-22) dated June 10, 2015, from Petitioner's treating psychiatrist was presented. Petitioner's current GAF was noted to be 60. Signs and symptoms included the following: anhedonia, decreased energy, impulse control impairment, mood disturbance, recurrent recollect of traumatic experience, persistent disturbance of mood, apprehensive expectation, substance dependence, persistent irrational fear, emotional lability, vigilance and scanning, easy distractibility, recurrent severe panic attacks, and activities with a high probability of painful consequences.

A GAF of 60 is insightful into determining Petitioner's degree of restriction. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. A GAF of 60 would be indicative of restrictions that are borderline mild. This consideration supports rejecting that Petitioner's restrictions are marked.

On the questionnaire, Petitioner's psychiatrist checked Petitioner's degree of restriction for 20 work-related abilities. Petitioner was not stated to be unable to meet competitive standards for any listed ability. Petitioner was considered "Seriously limited, but not precluded" in two abilities: to complete a normal workday without psychological interruption, and performing at a consistent pace without unreasonable rest. Petitioner was also found seriously limited in dealing with stress of semi-skilled and skilled work. Petitioner's impairments were expected to last 12 months or longer. Alcohol abuse was considered to be a contributor to Petitioner's limitations.

The stated-restrictions, though certainly a significant obstacle for Petitioner, are not indicative of marked restrictions. The restrictions suggest that Petitioner is capable of performing non-skilled employment, particularly if Petitioner resolves ongoing alcohol abuse issues.

A listing for joint dysfunction (Listing 1.02) was considered based on Petitioner's complaints of various body pains. The listing was rejected due to a failure to establish that Petitioner is unable to ambulate effectively or unable to perform fine and gross movements.

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

A listing for chronic pulmonary insufficiency (Listing 3.02) was considered based on Petitioner's complaints of dyspnea. The listing was rejected due to a lack of respiratory testing evidence.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of MDD (major depressive disorder). This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Petitioner required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

It is found that Petitioner failed to establish meeting a SSA listing (or the functional equivalent of a listing). Accordingly, the analysis moves to the fourth step.

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 it is determined that a petitioner 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.

Petitioner testified her only employment history was as a crewmember for two different fast-food restaurants. Petitioner testified that she last worked in 2010; Petitioner testified she was fired for unknown reasons. Petitioner testified that neither of her previous jobs were full-time, and neither resulted in wages exceeding SGA earnings. Petitioner's testimony was not rebutted.

Without employment history resulting in SGA, it can only be found that Petitioner cannot return to employment which earned her SGA. Accordingly, the analysis may proceed to the final step.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can

engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983). To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967.

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

Petitioner testified her friend financially supports her. Petitioner testified she tries to help out by doing dishes. Petitioner testified she is unable to help out more because of dyspnea (Petitioner testified she loses breath when she takes out the trash or ascends stairs), and various body pains. Petitioner testified she has difficulty sitting in the tub. Petitioner also testified she cannot comb her hair, vacuum, or do laundry. Petitioner's testimony estimated she is restricted to 20 minutes of standing before back and knee pain prevents further standing. Petitioner's testimony estimated she can only walk 5-10 minutes due to the same problems. Petitioner testified her sitting is restricted to 20 minutes due to lumbar pain. Petitioner testified her neurologist restricted her to lifting no more than a baby, presumably due to a loss in right arm strength.

Generally, Petitioner's testimony was indicative of an inability to perform even sedentary employment. It must be considered whether the testimony was consistent with presented records.

Physician statements of restrictions were provided. SSR 96-2p states that if a treating source's medical opinion is well-supported and not inconsistent with the other substantial evidence in the case record, it must be given controlling weight (i.e. it must be adopted). 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.*

Petitioner's family practice physician stated Petitioner had multiple restrictions on a Medical Examination Report, dated June 9, 2015. It was noted that Petitioner's

limitation(s) was expected to last 90 days. Petitioner's physician opined that Petitioner was restricted as follows over an eight-hour workday, less than 2 hours of standing and/or walking, and less than 6 hours of sitting. Petitioner was restricted to occasional lifting/carrying of less than 10 pounds, never 10 pounds or more. Petitioner's physician opined that Petitioner was restricted from performing the following repetitive actions on her right side: simple grasping, reaching, pushing/pulling, and fine manipulating. Petitioner was also restricted from operating leg/foot controls with both legs. The stated restrictions were consistent with a finding that Petitioner is unable to perform any exertional level of employment.

In response to a question asking for the stated basis for exertional restrictions, Petitioner's physician stated a positive straight-leg raising test. A positive test result tends to establish lower lumbar problems. It is often indicative of a herniated disc at L5-S1. A positive test result, by itself might justify lifting/carrying restrictions and a degree of ambulation restrictions. A positive test result, by itself, does not justify restrictions which preclude the performance of any employment.

Petitioner's physician stated that Petitioner was restricted in comprehension, sustained concentration, and following simple directions. In response to a question asking for the stated basis for mental restrictions, Petitioner's physician did not respond. The failure of Petitioner's physician to provide any basis for mental restrictions lessens the credibility of the restrictions.

Restrictions preventing the performance of sedentary employment could be verified by spinal (or other joint) radiology. Radiology reports were not presented. Other supporting evidence was presented.

Petitioner's physician noted Petitioner's right arm strength was reduced to 3-4/5. The loss of strength is consistent with neurological problems and a reduction in lifting/carrying abilities.

Petitioner's neurologist documented diagnoses of lumbar disc displacement, complex regional pain syndrome, mononeuritis multiplex, and lumbosacral radiculitis. Lumbar disc displacement is a diagnosis which does not imply much concerning functional restrictions. Radiculitis describes a radiating pain traveling from the spine and implies nerve dysfunction affecting multiple areas. Similarly, mononeuritis multiplex is nerve dysfunction which, by definition, affects multiple systems. While chronic regional pain syndrome is understood to be a particularly disabling condition typically causing constant pain at affected areas. The diagnoses are also suggestive of pain which could reasonably affect Petitioner's concentration and comprehension. The neurological diagnoses are generally supportive of all restrictions provided by Petitioner's physician.

Petitioner appears to have only recently sought treatment for her exertional and non-exertional restrictions. As her treatment progresses, it is reasonably possible that Petitioner's restrictions will diminish to the point where she is not disabled. Petitioner

also has the good fortune of relative youth (she is 26 years old) on her side. Medical improvement is a consideration to be considered at the time of redetermination.

For now, medical evidence supported a finding that Petitioner's combined exertional and non-exertional restrictions would render improbable the performance of any employment. Accordingly, Petitioner is a disabled individual and it is found that MDHHS improperly denied Petitioner's SDA application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that MDHHS improperly denied Petitioner's application for SDA benefits. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

(1) reinstate Petitioner's SDA benefit application dated April 12, 2015;
(2) evaluate Petitioner's eligibility subject to the finding that Petitioner 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 Petitioner 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: **12/3/2015**

Date Mailed: **12/3/2015**

CG/tm

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

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

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

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

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

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

Attention: MAHS Rehearing/Reconsideration Request

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

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

cc: [redacted]