

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

**IN THE MATTER OF:**

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████████████████████

Reg. No.: 15-006894  
Issue No.: 4009  
Case No.: ██████████  
Hearing Date: June 22, 2015  
County: Livingston

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on June 22, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's therapist at ██████████. Participants on behalf of the Department of Health and Human Services (Department) included Tracy ██████████, Eligibility Specialist.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional documents. The documents were received, the record closed on July 22, 2015, and the matter is now before the undersigned for a final determination.

**ISSUE**

Did the Department properly determine that Claimant was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

**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 January 30, 2015, Claimant submitted an application for public assistance seeking SDA benefits.
2. On April 24, 2015, the Medical Review Team (MRT) found Claimant not disabled (Exhibit A, pp. 8-10).
3. On April 24, 2015, the Department sent Claimant a Notice of Case Action denying the application based on MRT's finding of no disability (Exhibit A, pp. 3-6).

4. On May 4, 2015, the Department received Claimant's timely written request for hearing (Exhibit A, p. 2).
5. Claimant alleged disabling impairment due to major depression, anxiety disorder, borderline personality disorder, and intermittent explosive personality disorder.
6. On the date of the hearing, Claimant was [REDACTED] years old with a [REDACTED], birth date; he is [REDACTED] in height and weighs about [REDACTED] pounds.
7. Claimant completed the ninth grade. He was in special education classes in school. He needs assistance completing paperwork and does not have basic math skills.
8. Claimant has no employment history.
9. Claimant's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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

A 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 for 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).

To determine whether an individual is disabled for SSI purposes, the trier of fact must apply a five-step sequential evaluation process and consider the following:

- (1) whether the individual is engaged in substantial gainful activity (SGA);
- (2) whether the individual's impairment is severe;

- (3) whether the impairment and its duration meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404;
- (4) whether the individual has the residual functional capacity to perform past relevant work; and
- (5) whether the individual has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

### **Step One**

As outlined above, the first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Claimant has not engaged in SGA activity during the period for which assistance might be available. Therefore, Claimant is not ineligible under Step 1 and the analysis continues to Step 2.

### **Step Two**

Under Step 2, the severity of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b).

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the *de minimus* standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985).

In the present case, Claimant alleges disabling impairment due to major depression, anxiety disorder, borderline personality disorder, and intermittent explosive personality disorder. Although he testified at the hearing that he suffered from arthritis in his hands and knees, it is noted that he identified only his mental condition as his disabling condition in the medical-social questionnaire, DHS-49F, he submitted to the Department (Exhibit A, pp. 148-151). The medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

On April 19, 2014, Claimant went to the hospital complaining of suicidal ideation, with no active thoughts or plans at the time he was examined. He was diagnosed with mood disorder but denied acute issues requiring hospitalization and requested returning home (Exhibit A, pp. 126-135, 174-184).

In an October 28, 2014 psychiatric evaluation, Claimant's doctor diagnosed Claimant with generalized anxiety disorder and major depressive affective disorder recurrent episode moderate degree. The doctor noted that Claimant was in remission from alcohol (early full remission) and cocaine (sustained full remission) and that his sobriety was likely to benefit his symptoms considerably. Claimant was assigned a current global assessment of functioning (GAF) score of 55 (Exhibit 1, pp 1-5).

The file includes progress notes and assessments from January 2011 and March 2011 (Exhibit A, pp. 33-40, 84-91, 118-125); from December 2013 to April 2014 (Exhibit A, pp. 74-83) and from August 2014 to January 2015 (Exhibit A, pp. 41-73). It also includes medication reviews from November 2014 to June 17, 2015 (Exhibit 1, pp. 7-24; Exhibit A, pp. 92-115). The medication review notes for June 17, 2015, showed that

Claimant's anxiety and mood symptoms met the criteria for generalized anxiety disorder and major depressive disorder and that borderline personality disorder and explosive personality disorder had been ruled out. Claimant admitted that his symptoms improved with Zoloft and his shaking had resolved (Exhibit 1, pp. 7-12, 20-24).

On April 6, 2015, Claimant had an internal medical examination by a consulting doctor at the Department's request. The doctor noted some anxiety/depression but intact memory, judgment and insight, and normal mood and affect. The doctor noted that Claimant had normal range of motion of the spine. The doctor found no physical abnormalities other than a right third and fourth metatarsal deformity but his assessment indicates right hand/wrist deformity and left hand deformity 2011 (Exhibit A, pp. 30-32). An x-ray of Claimant's right wrist showed metacarpal deformity (Exhibit A, pp. 186, 193).

On April 15, 2015, Claimant was examined for by a consulting psychologist at the Department's request. The consulting psychologist noted that Claimant lead a rather isolative existence, noting his long history of institutionalization, including incarcerations, and has had a difficult adjustment to free society. The psychologist concluded that Claimant (i) appeared to be in contact with reality, positively motivated, insightful, and actively engaged in the recovery process; (ii) was spontaneous and fairly well organized in his responses; (iii) was mildly depressed, with a friendly demeanor and full range of affect; and (iv) based on a 2009 evaluation, functioned at the borderline range of intelligence, with achievement levels between the third and eight grade with significant difficulty in word identification and spelling. The psychologist diagnosed Claimant with bipolar disorder, mixed; polysubstance use dependence, in full sustained remission; borderline intellectual functioning; personality disorder, mixed with borderline paranoid and antisocial features. He concluded that Claimant's prognosis was guarded (Exhibit A, pp. 17 -29).

On June 23, 2015, Claimant's psychiatrist completed a mental residual functional capacity assessment, DHS-49-E, regarding Claimant's mental impairments and how they affected his activities. The psychiatrist concluded that Claimant had no, or no significant, limitations regarding his ability to remember locations and work-like procedures; understand and remember one or two-step instructions; carry out simple one or two step instructions; ask simple questions or request assistance; and be aware of normal hazards and take appropriate precautions. The psychiatrist concluded that Claimant had moderate limitations regarding his ability to understand and remember detailed instructions; carry out detailed instructions; make simple work-related decision; interact appropriately with the general public; and travel in unfamiliar places or use public transportation. The psychiatrist concluded that Claimant had marked limitations regarding his ability to maintain attention and concentration for extended periods; perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances; sustain an ordinary routine without supervision; work in coordination with or proximity of others without being distracted by them; complete a normal workday and worksheet without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and

length of rest periods; accept instructions and respond appropriately to criticisms from supervisors; get along with co-workers or peers without distracting them or exhibiting behavioral extremes; maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness; respond appropriately to change in the work setting; and set realistic goals or make plans independently of others (Exhibit 2).

In consideration of the de minimus standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Claimant suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Claimant has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

### **Step Three**

Step 3 of the sequential analysis of a disability claim requires a determination if the individual'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 an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented, listings 12.04 (affective disorders), 12.05 (intellectual disability), 12.06 (anxiety-related disorders), and 12.08 (personality disorders) were reviewed. Claimant's medical record in this case is not sufficient to support a finding that his impairments meet, or equal the severity of, any of the considered listings. Because Claimant's impairments are insufficient to meet, or to equal, the severity of a listing, Claimant is not disabled under Step 3 and the analysis continues to Step 4.

### **Residual Functional Capacity**

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Step 4, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. Impairments, and any related symptoms, may cause physical and mental limitations that affect what a person can do in a work setting. 20 CFR 416.945(a)(1). RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s) and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4). The RFC takes into consideration the total limiting effects of all impairments, including those that are not severe. 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2)

the type/dosage/effectiveness/side effects of any medication the applicants takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b). To determine the exertional requirements, or physical demands, of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a).

Sedentary work.

Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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. 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. If someone can do light work, . . . he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time.

Medium work.

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, . . . he or she can also do sedentary and light work.

Heavy work.

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, . . . he or she can also do medium, light, and sedentary work.

Very heavy work.

Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. If someone can do very heavy work, . . . he or she can also do heavy, medium, light, and sedentary work. 20 CFR 416.967.

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions 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).

In this case, Claimant alleges both exertional and nonexertional limitations due to his medical condition. He testified he had no problems walking and could lift about 15 pounds but he could not sit for long periods of time and needed to stand and pace. He had problems gripping and grasping items in his right hand due to prior hand fractures. He lived with his significant other who did most of the chores in the home because he was unable to stay focused on tasks. He testified that he was easily aggravated; suffered from paranoia; had a couple of panic attacks weekly, each lasting up to 45 minutes; had trouble concentrating; and slept a lot during the day and then had racing thoughts that kept him awake at night.

With respect to his exertional limitations, it is found that the medical evidence showing left hand and right hand and wrist deformity supports Claimant's claims concerning some limitations to his ability to lift weight and use his hands. With respect to Claimant's exertional limitations, a review of the entire record, including Claimant's testimony concerning his need to stand, it is found that Claimant maintains the physical capacity to perform light work as defined by 20 CFR 416.967(b).

Claimant also alleged nonexertional limitations due to his mental condition. For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of mental functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

In an October 28, 2014, psychiatric evaluation, Claimant's doctor diagnosed Claimant with generalized anxiety disorder and major depressive affective disorder recurrent

episode moderate degree. In the April 15, 2015, consulting psychological exam, the consulting psychologist concluded that Claimant was mildly depressed and in contact with reality, positively motivated, insightful, and actively engaged in the recovery process. He diagnosed Claimant with bipolar disorder, mixed; polysubstance use dependence, in full sustained remission; borderline intellectual functioning; personality disorder, mixed with borderline, paranoid and antisocial features and indicated that his prognosis was guarded. Relying on his prior 2009 evaluation of Claimant, the psychologist also noted that Claimant functioned at the borderline range of intelligence, with achievement levels between the third and eighth grade with significant difficulty in word identification and spelling.

Claimant's limitations in his ability to engage in the workplace is further supported by the June 23, 2015, mental residual functional capacity assessment, DHS-49-E, completed by Claimant's psychiatrist who concluded that Claimant had moderate limitations in his ability to interact appropriately with the general public and marked limitations in his ability to maintain attention and concentration for extended periods; perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances; sustain an ordinary routine without supervision; work in coordination with or proximity of others without being distracted by them; complete a normal workday and worksheet without interruptions from psychologically based symptoms and perform at a consistent pace without an unreasonable number and length of rest periods; accept instructions and respond appropriately to criticisms from supervisors; get along with co-workers or peers without distracting them or exhibiting behavioral extremes; maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness; respond appropriately to change in the work setting; and set realistic goals or make plans independently of others. In this case, the consulting psychologist, consistent with the treating source, found that Claimant led an isolative existence and had a difficult adjustment to free society. The consulting doctor also diagnosed Claimant with personality disorder, mixed with borderline paranoid and antisocial features. Because the consulting doctor's findings are not inconsistent with the treating source, the treating source is given controlling weight. Social Security Ruling (SSR) 96-2p.

Based on the medical record presented, as well as Claimant's testimony, Claimant has mild limitations in his activities of daily living, moderate to marked limitations in his social interactions, and marked limitations in his persistence, concentration and pace as well as intellectual limitations.

Claimant's RFC is considered at both steps four and five. 20 CFR 416.920(a)(4), (f) and (g).

#### **Step Four**

Step 4 in analyzing a disability claim requires an assessment of Claimant's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed within the past 15 years that was SGA and that lasted long enough

for the individual to learn the position. 20 CFR 416.960(b)(1). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

Claimant does not have any employment history. Accordingly, he cannot be found disabled, or not disabled, at Step 4 and the assessment continues to Step 5.

### **Step 5**

In Step 5, an assessment of Claimant's RFC and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). If the individual can adjust to other work, then there is no disability. Disability is found if an individual is unable to adjust to other work.

At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). When the impairment(s) and related symptoms, such as pain, only affect the ability to perform the exertional aspects of work-related activities, Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix 2, 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). However, 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). When a person has a combination of exertional and nonexertional limitations or restrictions, the rules pertaining to the strength limitations provide a framework to guide the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

In this case, Claimant was [REDACTED] years old at the time of application and [REDACTED] years old at the time of hearing, and, thus, considered to be a younger individual (age [REDACTED]) for purposes of Appendix 2. He has no work history and, as such, no transferable skills. He completed the ninth grade with a history of special education classes. He is limited in his ability to read, write, and do mathematics and found by the consulting psychologist to function at a borderline range of intelligence. The Medical-Vocational Guidelines, 202.17, do not result in a disability finding based on Claimant's exertional limitations. However, In addition to his intellectual limitations, Claimant has, as discussed above, mild limitations in his activities of daily living, moderate to marked

limitations in his social interactions, and marked limitations in his persistence, concentration and pace. Although Claimant retains the ability to do simple, unskilled, light work, his marked limitations in persistence, pace and concentration, coupled with moderate to marked limitations in his social interactions, make him unable to engage in sustained work activities in an ordinary work setting on a regular and continuing basis. See SSR 96-8p. Therefore, after review of the entire record, including Claimant's testimony, and in consideration of Claimant's age, education, work experience, as well as exertional and nonexertional RFC, Claimant is found disabled at Step 5 for purposes of SDA benefit program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant **disabled** for purposes of the SDA benefit program.

### **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. Process Claimant's January 30, 2015, SDA application to determine if all the other non-medical criteria are satisfied and notify Claimant of its determination;
2. Supplement Claimant for lost benefits, if any, that Claimant was entitled to receive if otherwise eligible and qualified;
3. Review Claimant's continued eligibility in January 2016.



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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **7/29/2015**

Date Mailed: **7/29/2015**

ACE / tlf

**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]