

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

IN THE MATTER OF:



MAHS Reg. No.: 15-016441
Issue No.: 4009
Agency Case No.: [REDACTED]
Hearing Date: November 12, 2015
County: Wayne (15)

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, an in-person hearing was held on November 2, 2015, from Detroit, Michigan. Petitioner represented himself. Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], Specialist.

ISSUE

The issue is whether MDHHS properly terminated 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. Petitioner was an ongoing SDA benefit recipient.
2. Petitioner's only basis for SDA eligibility was as a disabled individual.
3. On June 30, 2015, the Medical Review Team (MRT) determined that Petitioner was not a disabled individual for purposes of SDA eligibility (see Exhibits 3-4).
4. On July 1, 2015, MDHHS terminated Petitioner's eligibility for SDA benefits, effective August 2015, and mailed a Notice of Case Action (Exhibits 87-89) informing Petitioner of the termination.

5. On August 31, 2015, Petitioner requested a hearing disputing the termination of SDA benefits.
6. As of the date of the SDA termination, Petitioner was closely approaching advanced age.
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 12th grade, with no direct entry into skilled employment.
9. Petitioner has a history of semi-skilled employment, with no transferrable job skills.
10. Petitioner alleged disability based on restrictions related to a broken heel and shoulder nerve damage.

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 (7/2014), 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.

Generally, state agencies such as MDDHS 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. The definition of SDA disability is identical except that only a three month period of disability is required.

Substantial gainful activity 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. BEM 260 (7/2014), p. 10. 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 substantial gainful activity. *Id.*

Once an individual has been found disabled for purposes of disability-related benefits, continued entitlement 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. Petitioner was previously certified by the MRT as unable to work for at least 90 days. At Petitioner's most recent SDA benefit redetermination, MDDHS determined that Petitioner was no longer disabled.

In evaluating a claim for ongoing disability benefits, federal regulations require a sequential evaluation process be utilized. 20 CFR 416.994(b)(5). The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. *Id.* Prior to deciding if an individual's disability has ended, the department will develop, along with the petitioner's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

The below-described evaluation process is applicable for clients that have not worked during a period of disability benefit eligibility. There was no evidence suggesting that Petitioner received wages since receiving disability benefits.

The first step in the analysis in determining the status of a petitioner's disability 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 and no further analysis is required. This consideration requires a summary and analysis of presented evidence.

Petitioner testified he has right shoulder nerve damage related to a bike accident from 2009. Petitioner testified he fell and hit his right shoulder on the curb. Petitioner testified his pain worsened in 2012. Petitioner's testimony was consistent with presented records.

Petitioner testified he jumped off of a falling ladder in 2014. Petitioner testimony estimated his jump to be approximately 20 feet. Petitioner testified his right heel was “shattered” from the jump. Petitioner also testified the jump broke his fibula, though he testified that his calf bone has satisfactorily healed. On August 22, 2014, Petitioner underwent open-reduction surgery of his right calcaneal (see Exhibit 13). Petitioner’s testimony was consistent with presented records.

A Medical Examination Report (Exhibits 42-44) dated January 15, 2015, was presented. The form was completed by an orthopedist with an unstated history of treating Petitioner. Diagnoses of right calcaneus fracture and right sublar joint injury were noted. It was noted Petitioner walked with a cane/walker. An impression was given that Petitioner’s condition was stable. It was noted that Petitioner needed assistance with cleaning, laundry, and meal preparation through April 15, 2015. It was noted that Petitioner’s limitation(s) was expected to last 90 days. The physician opined that Petitioner was restricted to less than standing/walking of 2 hours or less over an eight-hour workday. Sitting restrictions were not noted. Petitioner was restricted to occasional lifting/carrying of 10 pounds, never 20 pounds or more. Petitioner’s physician opined that Petitioner was restricted from performing the following repetitive actions: pushing/pulling, fine manipulating, and right-sided operation of foot/leg controls. In response to a question asking for the stated basis for restrictions, Petitioner’s physician stated minimal walking/standing on right lower extremity.

Orthopedist office visit notes (Exhibits 13-15) dated January 29, 2015, were presented. It was noted that Petitioner was cleared to transition to a regular shoe as of December 4, 2014. Petitioner reported ongoing pain when climbing stairs and restrictions in motion. It was noted Petitioner needed Norco twice per day. Decreased sensation in Petitioner’s 4th and 5th toes was noted. Dorsiflexion and side-to-side motion were noted as stiff and limited. An x-ray was noted to show normal hardware placement (see Exhibits 20-21). A collapse in Petitioner’s medial arch was noted when Petitioner was standing. Consideration of hardware removal in the future was noted. Continued prescriptions of Norco and Drisdol were noted.

Orthopedist office visit notes (Exhibits 16-17) dated March 26, 2015, were presented. Severely decreased inversion and eversion in Petitioner’s right foot was noted. Reduced muscle strength (4/5) was noted. A collapsing pes planovalgus was noted during a standing examination. A plan of range of motion and strengthening exercises was noted.

A Medical Examination Report (Exhibits 35-37) dated April 27, 2015, was presented. The form was completed by a treating orthopedist with an approximate 8-month history of treating Petitioner. A diagnosis of s/p right calcaneal fracture was noted. An impression was given that Petitioner’s condition was stable. It was noted that Petitioner needed help with shopping, meal preparation, and yard work through June 16, 2015. It was noted that Petitioner’s limitation(s) was expected to last 90 days. Walking and

sitting restrictions were not noted. Petitioner was restricted to occasional lifting/carrying of 10 pounds, never 20 pounds or more. Petitioner's physician opined that Petitioner was restricted from performing repetitive actions with his right foot. Restrictions were noted to be justified by decreased ankle range of motion and x-rays showing facet depression.

Orthopedist office visit notes (Exhibits 18-19) dated May 14, 2015, were presented. It was noted Petitioner reported a decrease in pain medication because of reduced pain. Muscle strength was noted to be 5/5. A mild deficit of posterior facet with mild collapse was noted. A 3-month follow-up was planned. An x-ray was noted to show diffuse osteopenia (see Exhibits 22-23) with intact hardware placement.

An internal medicine examination report (Exhibits 5-12) dated June 15, 2015, was presented. The report was noted as completed by a consultative physician. Petitioner reported complaints of arthritis, back pain, and nerve damage. It was noted Petitioner reported using a cane since earlier in the year, though it was not used during the examination. Petitioner was noted as having a right-sided limp. Tandem walk, heel walk, and toe walk were noted as slowly performed. It was noted Petitioner's squatting and bending were restricted. Reduced ranges of motion were noted in Petitioner's lumbar flexion (75°- normal 90°) and bilateral hip forward flexion (50°- normal 100°). It was noted that Petitioner was able to perform all 23 listed work-related activities which included sitting, standing, lifting, carrying, stooping, bending, and reaching, though most were performed with pain. The examiner stated that clinical evidence supported a need for a cane. Impressions of spinal arthritis, right foot arthritis, and right upper extremity nerve damage were noted.

An MRI report of Petitioner's cervical spine (Exhibit A1) dated July 29, 2015, was presented. An impression of a C6-C7 disc protrusion without neural compromise was noted.

An MRI report of Petitioner's right shoulder (Exhibits A2-A3) dated August 13, 2015, was presented. An impression of degenerative changes was noted. Impingement of the rotator cuff and patchy signal intensity which was indicative of significant tendonitis was noted.

Physician office visit notes (Exhibits A4-A6) dated November 6, 2015, were presented. It was noted that Petitioner reported for MRI results. It was noted an MRI of Petitioner's right shoulder showed significant tearing and tendonitis. A referral for further treatment was noted.

Petitioner's most prominent impairment appears to be walking and lifting restrictions related to a fractured heel. Petitioner's impairments are covered by Listing 1.06 which reads as follows:

1.06 Fracture of the femur, tibia, pelvis, or one or more of the tarsal bones.

With:

A. Solid union not evident on appropriate medically acceptable imaging and not clinically solid;

And

B. Inability to ambulate effectively, as defined in 1.00B2b, and return to effective ambulation did not occur or is not expected to occur within 12 months of onset.

Some household restrictions were noted in May 2015. The restrictions were not sufficient to justify an inference that Petitioner is unable to effectively ambulate.

Updated heel radiology noted osteopenia. Low bone density is not compelling evidence of an inability to ambulate effectively. Osteoporosis would have been a more concerning diagnosis.

A listing for joint dysfunction (Listing 1.02) was considered based on Petitioner's complaints of right shoulder pain. The listing was rejected due to a failure to establish that Petitioner is unable to effectively perform fine and gross movements with two extremities.

It is found that Petitioner failed to establish meeting or equaling a SSA listing. Accordingly, the analysis moves to the second step.

The second step of the analysis considers whether medical improvement occurred. CFR 416.994(b)(5)(ii). 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). The analysis will begin with a summary of medical documents that supported a previous finding of disability.

MDHHS presented a Medical-Social Eligibility Certification (Exhibits 53-54) dated November 6, 2014. The document indicated Petitioner was approved by the MRT for a period of longer than 90 days.

Various hospital documents from August 2014 (Exhibits 65-79), indicated a diagnosis of a fracture right calcaneal fracture. It was noted Petitioner underwent open-reduction and internal fixation of his right heel.

Physician office visit notes (Exhibits 80-81) dated September 11, 2014, were presented. It was noted that Petitioner was non-weight-bearing as of 20 days following surgery.

A comparison of Petitioner's medical documents originally justifying a disability finding and more recent medical documents demonstrate that Petitioner's heel has improved. Recent reports of pain reduction were noted. An increase in muscle strength from March 2015 to May 2015 was noted. An increase from occasional lifting/carrying of less

than 10 (see Exhibit 43) pounds in January 2015 was upgraded to an allowance of frequent lifting/carrying of less than 10 pounds (see Exhibit 36) in April 2015.

It is found that Petitioner has medically improved. Accordingly, the analysis proceeds to the third step.

The third step of the analysis considers medical improvement and its effect on the ability to perform SGA. Medical improvement is not related to the ability to work if there has been a decrease in the severity of the impairment(s) present at the time of the most recent favorable medical decision, but *no* increase in functional capacity to do basic work activities. 20 CFR 416.994(b)(1)(ii). If there has been any medical improvement, but it is not related to the ability to do work and none of the exceptions applies, benefits will be continued. *Id.* If medical improvement is related to the ability to do work, the process moves to step five.

As noted in the second step of the analysis, Petitioner reported a decrease in pain. A decrease in pain should increase concentration and expand Petitioner's physical abilities (e.g. ambulation and lifting/carrying).

Also noted at the second step was an increase in muscle strength and lifting/carrying. An increase from occasional lifting/carrying to frequent lifting/carrying should expand Petitioner's sedentary employment opportunities. Increased muscle strength also likely expands Petitioner's functional capacity.

It is found that Petitioner's medical improvement relates to Petitioner's ability to perform employment. Accordingly, the analysis skips the 4th step and proceeds directly to the 5th step.

Step five of the analysis considers whether all the current impairments in combination are severe. 20 CFR 416.994(b)(5)(v). When the evidence shows that all current impairments in combination do not significantly limit physical or mental abilities to do basic work activities, these impairments will not be considered severe and the Petitioner will not be considered disabled. *Id.* If the impairments are considered severe, the analysis moves to step six. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.921 (a). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921 (b). 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. (*Id.*)

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 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

Petitioner testified he limps and has difficulty with ambulation. He testified he uses a cane whenever he leaves his home, though he tries to ambulate around his home without a cane. Petitioner testified that right hip, right knee, and right foot arthritis restrict his ambulation and lifting/carrying. Petitioner testified that a loss of sensation in his two small toes on his right foot causes him to limp because he is unable to extend his toes when he walks. Petitioner thinks he may need a bone marrow transplant in the future to improve this condition. Petitioner also testified that a recent increase in his Gabapentin dosage (800 mg @ 3x per day) is indicative of a worsening condition with nerve pain. Petitioner's testimony was generally consistent with presented records.

Petitioner testified he has right shoulder nerve damage. Petitioner testified his shoulder pain is worse when it is cold. Petitioner testified he may need to have his clavicle purposely broke and then reset; he also stated he is hesitant to attempt such a procedure due to the medical risks involved. Petitioner's testimony was consistent with records and indicative of lifting/carrying and repetitive action restrictions.

It is found that Petitioner has severe impairments. Accordingly, the disability analysis may proceed to the next step.

The sixth step in analyzing a disability claim requires an assessment of the Petitioner's RFC and past relevant employment. 20 CFR 416.994(b)(5)(vi). 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 that he spends his current time taking care of his father's physical needs. Petitioner testified that his brother assists him with the caretaking. Petitioner testified he likely could not perform the job at a professional level. An analysis whether Petitioner could perform caretaker employment at SGA levels was not considered because Petitioner has not received SGA earnings as a caretaker.

Petitioner testified he worked from approximately 1999 through 2005 as a forklift driver and cherry picker operator. Petitioner testified that he worked in a warehouse and was expected to lift 100 pounds and stand for most of the day.

Petitioner testified he worked from 2007-2008, in shipping and receiving employment. Petitioner testified his duties included weighing metals, unloading trucks, wrapping, packaging, and other various duties. Petitioner testified he was expected to lift/carry 85-100 pounds and stand for most of the day.

Petitioner testified he held various temporary employment jobs since 2008. Petitioner testified that his jobs involved shipping and receiving, packaging, unloading trucks, and working on an assembly line. Petitioner testified that one of his assembly line jobs included packaging parts weighing less than 25 pounds. Petitioner's testimony indicated he might be able to currently perform this employment if the job required 20 pounds or less of lifting/carrying.

Petitioner testified that he also performed home improvements. Improvements included roofing and gutter repairs. Petitioner's testimony implied that he is unable to perform the lifting/carrying or ambulation required of roofing or repairing gutters.

Petitioner testified he has looked for employment since injuring his heel in 2014. Petitioner testified that he could only sustain employment if his lifting/carrying were restricted.

Petitioner's testimony describing his previous employment was credible. Petitioner's testimony that he is unable to perform the lifting/carrying and ambulation required of his previous employment was also credible. It is found that Petitioner cannot perform past relevant employment and the disability analysis may proceed to the final step.

In the seventh and final step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20

CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or

difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Given Petitioner's age, education and employment history a determination of disability is dependent on Petitioner's ability to perform light employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Petitioner's testimony conceded he was fairly capable at performing ADLs. Petitioner testified he had no problems with bathing, dressing grooming, or cooking. Petitioner testified he limited himself to lifting only small baskets of laundry. Petitioner also testified he was unable to perform yardwork or snow shoveling. Petitioner's testimony was generally consistent with presented evidence.

Petitioner testified he has a 20 pound lifting/carrying restriction. Petitioner's testimony was slightly less restrictive than Medical Examination Reports which precluded Petitioner from lifting/carrying of 20 pounds or more.

Petitioner's testimony estimated he was limited to 1-2 blocks of walking. Petitioner's testimony was consistent with a history of broken calcaneal with an ongoing limp, in part, caused by nerve damage to the 4th and 5th toes. Petitioner's testimony was consistent with someone who needs a cane, as indicated by a consultative examiner.

Presented testimony and medical documentation were highly consistent with a finding that Petitioner is unable to perform light employment, but can perform sedentary employment. It is found that Petitioner is restricted to performing sedentary employment. For purposes of this decision, it will be found that Petitioner is capable of a performing a full range of sedentary employment.

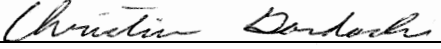
Based on Petitioner's exertional work level (sedentary), age (approaching advanced age), education (high school with no direct entry into skilled employment), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 201.14 is found to apply. This rule dictates a finding that Petitioner is disabled. Accordingly, it is found that MDHHS improperly terminated Petitioner's SDA eligibility by finding that Petitioner was not disabled.

DECISION AND ORDER

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

- (1) redetermine Petitioner's SDA benefit eligibility, effective August 2015, subject to the finding that Petitioner is a disabled individual;
- (2) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (3) 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: **11/18/2015**
Date Mailed: **11/18/2015**
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:

