

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-021336
Issue No.: 4009
Agency Case No.: ██████████
Hearing Date: February 01, 2016
County: Montcalm

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 1, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Lead Worker.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. The 147 pages of medical documents submitted by Petitioner to the Department at the hearing were marked and admitted into evidence as Petitioner's Exhibit 1; letters from Petitioner's doctors submitted by Petitioner to the Department at the hearing were marked and admitted into evidence as Petitioner's Exhibit 2; a DHS-49D, psychological/psychiatric examination report, and DHS-49E, mental residual functional capacity assessment, were marked and admitted into evidence as the Department's Exhibit C; and Petitioner's hospital records from ██████████ ██████████) were marked and admitted into evidence as the Department's Exhibit D. The record closed on March 2, 2016, and the matter is now before the undersigned for a final determination based on the evidence presented.

ISSUE

Did the Department properly determine that Petitioner 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 July 14, 2015, Petitioner submitted an application seeking cash assistance on the basis of a disability (Exhibit A, pp. 86-97).

2. On October 7, 2015, the Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 3-6).
3. On November 18, 2015, the Department sent Petitioner a Notice of Case Action denying the application based on MRT's finding of no disability (Exhibit A, pp. 7-12).
4. On November 17, 2015, the Department received Petitioner's timely written request for hearing (Exhibit A, pp. 2).
5. Petitioner alleged disabling impairment due to back pain, knee pain, anxiety, bipolar disorder, and mood disorder.
6. On the date of the hearing, Petitioner was ■ years old with a ■ birth date; he is ■" in height and weighs about ■ pounds.
7. Petitioner completed the ■ grade with some special education classes; he received a GED.
8. Petitioner testified that he has not had any steady employment but the work history questionnaire he completed July 21, 2015 showed that he had worked for short periods of time as a laborer, press operator and farm hand, all occupations that required that he stand most of the work day and carry between 10 and 100 pounds.
9. At the time of application, Petitioner was not employed.
10. Petitioner has a pending disability claim with the Social Security Administration.

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 2015), 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).

Determining whether an individual is disabled for SSI purposes requires the application of a five step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has the residual functional capacity to perform past relevant work; and (5) 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 in this process, 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

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

Step Two

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that 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. 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, such as (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). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

In the present case, Petitioner alleges disabling impairment due to back pain, knee pain, anxiety, bipolar disorder, and mood disorder. Petitioner submitted letters from physician assistants at the mental health facility he frequented and from the physician's assistant at his primary care doctor's office, both indicating that Petitioner was unable to work primarily due to his mental condition (Exhibit 2; Exhibit A, p. 31). Opinions from a medical source that an individual is disabled are not binding. 20 CFR 416.927(d); SSR 96-5p. Furthermore, physician's assistants are not medical sources who can give a medical opinion. SSR 06-03p. Accordingly, the letters are considered but are not dispositive. The remaining medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

A June 4, 2015 x-ray of both knees was normal (Exhibit A, pp. 51-52, 57-59).

On August 7, 2015, Petitioner's primary care physician completed a medical examination report, DHS-49, listing Petitioner's diagnoses as anxiety, bipolar, bilateral knee, osteoarthritis, low back pain, ADHD, cognitive disorder, and personality disorder. The doctor noted that Petitioner had right knee tenderness, bilateral lumbar spine muscle spasms, and severe anxiety. The doctor concluded that Petitioner's condition was stable and identified the following limitations: (i) he could frequently lift and carry 20 pounds and occasionally lift and carry 25 pounds or more; (ii) he could sit about 6 hours in an 8-hour workday; (iv) he could use neither arm or hand to grasp, reach, push/pull, fine manipulate; and (v) he could use neither foot or leg to operate foot and leg controls. It is not clear from the manner the form is written whether there are any standing/walking restrictions. (Exhibit A, pp. 28-30.)

In a July 30, 2014 psychiatric evaluation, Petitioner was diagnosed with mood disorder, panic disorder with agoraphobia, alcohol dependence, and personality disorder (Exhibit 1, pp. 125-130; Exhibit A, pp. 98-105). Petitioner submitted his psychiatric records from

April 24, 2014 to January 25, 2016, which included notes from therapy sessions and medication review (Exhibit 1; Exhibit A, pp. 106-315). The notes indicate that alcohol dependence was in remission (Exhibit A, p. 120).

Notes from a December 29, 2015 office visit with his doctor show that Petitioner reported aching, sharp, stabbing back pain in his back, cramping and burning in the right leg, and numbness in both arms. A physical exam showed intact range of motion of the neck and normal range of motion of the musculoskeletal system with good tone and bulk. He was diagnosed with bilateral upper extremity paresthesias and lower back pain. A January 8, 2016 cervical spine x-ray was normal, with no evidence of abnormal motion with flexion and extension. A January 7, 2016 cervical spine MRI showed posterior disc protrusion at C6-C7 with effacement of the ventral epidural space and mild flattening of the cervical spinal cord but no central canal stenosis and moderate left neural foraminal narrowing at this level. A January 7, 2016 lumbar spine MRI showed disc protrusion at L4-L5 level contributing to moderate left neural foraminal stenosis and redemonstration of disc protrusion with annular fissure without nerve root impingement at L5-S1. At the January 19, 2016 office visit, in reviewing the test results, the doctor diagnosed Petitioner with midline low back pain with right-sided sciatica. (Exhibit D.)

The February 5, 2016 psychiatric/psychological examination report, DHS-49D, mental residual functional capacity assessment, DHS-49-E, were completed by the physician's assistant-certified at Montcalm Care Network, the facility where Petitioner received psychiatric treatment. A certified physician's assistant is not an acceptable medical source who can give a medical opinion to establish the existence of a medically determinable impairment. SSR 06-03p; 20 CFR 416.927. However, evidence provided by the physician's assistant, though not an acceptable medical source, can be considered to show the severity of Petitioner's impairments and how it affects his ability to function. SSR 06-03p.

In the February 5, 2016 DHS-49D, the physician's assistant-certified indicated that Petitioner had been diagnosed with mood disorder, panic disorder with agoraphobia, and personality disorder that limited his ability to have appropriate interactions with others and limited his activities outside the home. A mental status exam showed poor grooming and hygiene, anxious appearance, appropriate eye contact, primarily appropriate affect, adequate insight and judgment, concrete thought content and process, no delusions, non-pressured speech with normal tone and volume, grossly intact memory, adequate fund of knowledge and intact reality orientation. It was noted that Petitioner struggled to engage in socially appropriate behavior and interacting with others which resulted in an inability to maintain gainful employment. He was assigned a global assessment of functioning (GAF) score of 50, a decrease from the prior year's GAF score of 55 (Exhibit C, pp. 1-3).

On February 5, 2016, the physician's assistant-certified also completed a mental residual functional capacity assessment, DHS-49-E, regarding Petitioner's mental impairments and how they affected his activities. He concluded that Petitioner had **no**,

or no significant, limitations regarding his ability to remember locations and work-like procedures; understand and remember one or two-step instructions; understand and remember detailed instructions; carry out simple one or two step instructions; perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances; make simple work-related decision; and maintain socially appropriate behavior and adhere to basic standards of neatness and cleanliness. He concluded that Petitioner had **moderate** limitations regarding his ability to carry out detailed instructions; maintain attention and concentration for extended periods; 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; interact appropriately with the general public; ask simple questions or request assistance; respond appropriately to change in the work setting; travel in unfamiliar places or use public transportation; set realistic goals or make plans independently of others. He concluded that Petitioner had **marked** limitations regarding his ability to accept instructions and respond appropriately to criticisms from supervisors and get along with co-workers or peers without distracting them or exhibiting behavioral extremes. (Exhibit C, pp. 4-5.)

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Petitioner suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Petitioner 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 in this case, listings 1.02 (major dysfunction of a joint), 1.04 (disorders of the spine), 12.04 (affective disorders), and 12.06 (anxiety-related disorders) were considered.

A listing under 1.02 requires gross anatomical deformity and chronic joint pain and stiffness with signs of limitation of motion and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankyloses of the affected joint with involvement of one major peripheral weight-bearing joint resulting in an inability to ambulate effectively or involvement of one major peripheral joint in each upper extremity resulting in an inability to perform fine and gross movements effectively. A listing under 1.04 requires evidence of nerve root compression, spinal arachnoiditis, or lumbar spinal stenosis resulting in pseudoclaudication established by findings on

appropriate medically acceptable imaging and lead to an inability to ambulate effectively. The medical evidence does not support a finding that Petitioner's impairments meet or equal a listing under 1.02 or 1.04.

A listing under 12.04 requires either (i) medically documented persistence of depressive, manic, or bipolar syndrome resulting in marked limitations in functioning or (ii) medically documented history of a chronic affective disorder of at least two years' duration that has caused more than a minimal limitation of ability to do basic work activities with either repeated episodes of decompensation, residual disease process, or one or more years' current inability to function outside a highly supportive living arrangement. A listing under 12.06 requires (i) marked limitations in functioning or repeated episodes of decompensation or (ii) complete inability to function independently outside the area of one's home. The evidence does not show that Petitioner's mental condition met or equal a listing under 12.04 or 12.06.

Because the medical evidence presented does **not** show that Petitioner's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration, Petitioner 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 Steps 4 and 5, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), including those that are not severe, 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); 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). 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 individual's impairments 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). The exertional requirements, or physical demands, of work in the national economy are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a). 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 and occasionally walking and standing. 20 CFR

416.967(a). 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 the light 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. 20 CFR 416.967(b). 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). 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). 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. 20 CFR 416.967(e).

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., unable to 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). 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 this case, Petitioner alleges both exertional and nonexertional limitations due to his medical condition. Petitioner testified that, because of his back pain and knee pain, especially the right knee, he might be able to walk up to a half hour with pain but would then need to spend the next day recovering. His ability to stand was limited because of his leg pain. He did not have any problems sitting but he got anxious if he sat for too long. He lived with his mother and father and could take care of his personal hygiene and dress himself though he wore looser clothing for ease. He did a lot of the household chores. He did not drive because of the pills he took. He did not go shopping because he did not have money. He interacted with his friends and neighbor, sometimes tinkering with fixing dirt bikes for his neighbors. He did not like to be in crowds and could only interact with one or two people at a time, preferring to be at home. He testified that he was often anxious, and the Department worker noted that he appeared very nervous and shook his leg. He stated he had concentration and memory issues and was often unfocused.

On January 7, 2016, Petitioner had a cervical spine MRI that showed disc protrusion at C6-C7 and a lumbar spine MRI that showed disc protrusion at L4-L5 and L5-S1 but no central canal stenosis or nerve root impingement. On August 7, 2015, Petitioner's

primary care physician identified the following limitations: (i) he could frequently lift and carry 20 pounds and occasionally lift and carry 25 pounds or more; (ii) he could sit about 6 hours in an 8-hour workday; (iii) he could use neither arm or hand to grasp, reach, push/pull, fine manipulate; and (iv) he could use neither foot or leg to operate foot and leg controls. June 4, 2015 x-rays of both knees were normal. While this evidence supports Petitioner's testimony that he had limitations in his ability to walk, stand, and lift, Petitioner's testimony concerning the extent of his limitations is partially credible, particularly in light of his testimony that he could perform most household chores. With respect to Petitioner's exertional limitations, it is found based on a review of the entire record that Petitioner maintains the physical capacity to perform light work as defined by 20 CFR 416.967(b).

Petitioner's medical record also shows impairments due to his mental condition. In a July 30, 2014 psychiatric evaluation, Petitioner was diagnosed with mood disorder, panic disorder with agoraphobia, alcohol dependence in remission, and personality disorder. In the February 5, 2016 evaluation by a physician's assistant at Petitioner's mental health facility, it was noted that he had primarily appropriate affect, adequate insight and judgment, concrete thought content and process, no delusions, non-pressured speech with normal tone and volume, grossly intact memory, adequate fund of knowledge and intact reality orientation but he struggled to engage in socially appropriate behavior and interacting with others which resulted in an inability to maintain gainful employment. In the mental residual functional capacity assessment, the physician's assistant noted that Petitioner had no, or no significant, limitations in his ability to understand and carry out simple instructions but he had moderate limitations in his ability to engage in workplace behavior and marked limitations in his ability to accept instruction from supervisors and get along with coworkers or peers without distracting them. Based on the evidence presented, including Petitioner's testimony, it is found that Petitioner can engage in simple work activity involving one and two step instructions but has moderate limitations in his mental ability to participate in a work environment.

Petitioner's RFC is considered at both Steps 4 and 5. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step 4 in analyzing a disability claim requires an assessment of Petitioner'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).

Petitioner testified that he has not had any steady employment but the work history questionnaire he completed July 21, 2015 showed that he had worked for short periods of time as a laborer, press operator and farm hand, all occupations that required that he stand most of the work day and regularly carry 25 pounds and sometimes up to 100 pounds. Petitioner's former employment is properly characterized as medium to heavy. Because Petitioner's exertional RFC limits him to light work, he is unable to engage in past relevant work. Accordingly, Petitioner 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 Petitioner'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 Petitioner to the Department to present proof that Petitioner 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). 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, at the time of application and at hearing, Petitioner was ■ years old and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He has a history of special education classes but received a GED. His employment consisted of unskilled work. Therefore, he has no transferable skills.

As discussed above, Petitioner maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform light work activities. In this case, the Medical-Vocational Guidelines, 202.20, result in a finding that Petitioner is not disabled based on exertional limitations. Petitioner is able to perform simple, unskilled work activities requiring one and two-step instructions and, while he has some limitations in his ability to get along with supervisors and coworkers, his mental RFC would not preclude him from engaging basic work activities in an environment that involved limited engagement with coworkers or the public. Therefore, Petitioner's

mental RFC does preclude him from being able to perform the non-exertional aspects of work-related activities. Because Petitioner is able to engage in other work, he is not disabled at Step 5.

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 Petitioner **not disabled** for purposes of the SDA benefit program.

DECISION AND ORDER

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



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

Date Signed: **3/31/2016**

Date Mailed: **3/31/2016**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]