



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: July 28, 2016
MAHS Docket No.: 16-007215
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 June 29, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on her own behalf. [REDACTED], Case Manager, Community Mental Health (CMH), appeared as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

The following Exhibits were entered into the record during the hearing:

- o Department's Hearing Summary (Department Exhibit A, p. 1)
- o Petitioner's Hearing Request (Department Exhibit A, pp. 2-3)
- o May 16, 2016, Notice of Case Action (Department Exhibit A, pp. 4-7)
- o May 13, 2016 Medical-Social Eligibility Certification (Department Exhibit A, pp. 8-14)
- o Social Security Administration (SSA) Case Development Sheet (Department Exhibit A, pp. 15-23)
- o April 26, 2016, Medical-Social Questionnaire (Department Exhibit A, pp. 24-27)
- o March 11, 2016, Medical-Social Questionnaire (Department Exhibit A, pp. 28-31)
- o Portions of SSA form regarding work activity (Department Exhibit A, pp. 32-35)
- o March and April 2016, Authorization to Release Protected Health Information forms (Department Exhibit A, pp. 36-41)
- o Medical Records from [REDACTED] (Department Exhibit A, pp. 42-69)
- o Medical Records from [REDACTED] (Department Exhibit A, pp. 70-80)

- Medical Records from [REDACTED] (Department Exhibit A, pp. 81-223)
- April 20, 2016, Activities of Daily Living- Third Party (Department Exhibit A, pp. 224-233)
- April 21, 2016, Work History Questionnaire (Department Exhibit A, pp. 234-243)
- undated, Activities of Daily Living (Department Exhibit A, pp. 244-250)
- April 24, 2016, Activities of Daily Living-Third Party (Department Exhibit A, pp. 251-260)

During the hearing, Petitioner waived the time period for the issuance of this decision, in order to allow for the submission of additional medical evidence. On June 30, 2016, an Interim Order Extending the Record was issued giving the Department 10 days to forward the additional medical records the Department had received from Petitioner.

On July 1, 2016, the following Exhibits were entered into the record:

- Fibromyalgia Syndrome Medical Assessment Form from Dr. [REDACTED] (Petitioner Exhibit 1, pp. A-E)
- February 3, 2016, [REDACTED] Service Entry Initial Assessment (Petitioner Exhibit 1, pp. F-I)
- Medical Records from [REDACTED] (Petitioner Exhibit 1, pp. J-P)
- Medical Records from [REDACTED] (Petitioner Exhibit 1, pp. Q-FF)
- Medical Records from [REDACTED] (Petitioner Exhibit 1, pp. GG-AAA)
- Medical Records from [REDACTED] (Petitioner Exhibit 1, pp. BBB-GGG)
- Medical Record from [REDACTED] (Petitioner Exhibit 1, p. HHH)

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

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 March 11, 2016, Petitioner applied for SDA. (Department Exhibit A, p. 8)

2. On May 13, 2016, the Medical Review Team (MRT) found Petitioner not disabled. (Department Exhibit A, pp. 8-14)
3. On May 16, 2016, the Department notified Petitioner of the MRT determination. (Department Exhibit A, pp. 4-7)
4. On May 25, 2016, the Department received Petitioner's timely written request for hearing. (Department Exhibit A, pp. 2-3)
5. Petitioner alleged disabling impairments including degenerative disc disease, scoliosis, osteoporosis, blood clot in spine, diabetes, fibromyalgia, migraines, anemia, abnormal breast MRI, closed head injury, post-traumatic stress disorder (PTSD), personality disorder, and depression. (Exhibit A, p. 24; Petitioner Testimony)
6. At the time of hearing, Petitioner was [REDACTED] years old with a [REDACTED], birth date; was [REDACTED] in height; and weighed [REDACTED] pounds. (Petitioner Testimony)
7. Petitioner completed an Associate's Degree in Law Enforcement and has a work history including home health aide, correctional officer, and police officer. (Petitioner Testimony)
8. Petitioner'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 Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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 person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based

on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Disability is defined as the inability to do any substantial gainful activity 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(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 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, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant 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).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(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 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). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both steps four and five. 20

CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Petitioner is not involved in substantial gainful activity. Therefore, Petitioner is not ineligible for disability benefits under Step 1.

The severity of the Petitioner's alleged impairment(s) is considered under Step 2. The Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b). 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 means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting.

Id.

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and*

Human Services, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a Petitioner's age, education, or work experience, the impairment would not affect the Petitioner's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Petitioner alleges disabling impairments including degenerative disc disease, scoliosis, osteoporosis, blood clot in spine, diabetes, fibromyalgia, migraines, anemia, abnormal breast MRI, closed head injury, PTSD, personality disorder, and depression. (Department Exhibit A, p. 24; Petitioner Testimony) While some older medical records were submitted and have been reviewed, the focus of this analysis will be on the more recent medical evidence.

The Department received a Fibromyalgia Syndrome Medical Assessment form completed by Dr. [REDACTED] on February 3, 2015. Severe chronic pain was indicated as well as symptoms that at least frequently interfere with attention and concentration. Petitioner was noted to be unable to perform or be exposed to each of the listed aspects of workplace stress. It was marked that Petitioner's impairments had lasted or could be expected to last 12 months. Physical limitations included sitting about 2 hours in an 8 hour work day, standing/walking less than 2 hours in an 8 hour work day, and lifting/carrying up to 10 pounds occasionally. Petitioner's symptoms would likely cause the need to take more than 10 unscheduled 30 minute breaks during an average 8 hour work day. Petitioner's legs should be elevated with prolonged sitting. Petitioner should never twist or stoop. During an 8 hour work day Petitioner would be limited to using her hands (grasp/turn/twist objects) and fingers (fine manipulations) 10% of the time and arms (reaching) 5% of the time. It was estimated that Petitioner would be absent from work more than four days per month. (Petitioner Exhibit 1, pp. A-E)

January 2015 through March 2016 records from [REDACTED] were submitted. The records document diagnosis and treatment of multiple conditions, including: chronic pain syndrome, cervicgia, fibromyalgia, other cervical and intervertebral disc degeneration, osteopenia of lumbar spine and both hips, enthesopathy, headache, diabetes, nipple discharge, insomnia, PTSD, dysthymic disorder, and anxiety. The records note a history of traumatic head injury, migraines, depression, and osteoporosis. A February 10, 2015, MRI of the cervical spine showed: degenerative disc disease, mild disc bulge at the C3-C4 level, and mild to moderate disc bulge that is the worst centrally at the C6-C7 level. A March 1, 2016, lumbar spine complete with flexion and extension views report showed: mild levoscoliosis of the lumbar spine; mild to moderate hypertrophic changes in the lower lumbar spine; grade 1 spondylolisthesis of L3 of L4; and degenerative disc disease at L3-L4 and suggested posteriorly at L4-L5. The records also show that Petitioner underwent several epidural injections for degenerative disc disease as well as a sacroiliac joint injection. A March 16, 2016, record documents physical exam findings including: mood is sad, crying; gait antalgic uses a walker for support; range of motion of the cervical spine is decreased with lateral flexion and rotation; range of motion of the lumbar spine is decreased with pain. (Department Exhibit A, pp. 81-223; Petitioner Exhibit 1, pp. J-R)

January and February 2016 records from [REDACTED] were submitted. The January 15, 2016, initial assessment documents diagnoses of PTSD and depressive disorder. Petitioner's Global Assessment of Functioning (GAF) was 55. The diagnostic summary narrative section also indicates Petitioner appears to meet criteria for major depressive disorder, moderate, single episode based on self-reported symptoms. Petitioner reported a history of abuse from her ex-husband, recurring nightmares, panic attacks triggered by sights or smells related to the past abuse, feeling sad, feeling irritable, difficulty sleeping, exaggerated startle response, difficulty concentrating, excessive guilt, and suicidal ideation. A February 8, 2016, person centered plan documents diagnoses of PTSD and moderate single episode major depressive disorder. Petitioner's GAF remained at 55. Services on the person centered plan were: targeted case management; community living supports (CLS) with community support aids (CSA's) – individual; individual therapy; CLS group; and group therapy. (Department Exhibit A, pp. 70-80; Petitioner Exhibit 1, pp. F-I)

February through April 2016 records from [REDACTED] were submitted. The February 12, 2016, record documents assessment for bilateral nipple discharge, abnormal breast MRI, and family history of breast cancer. Petitioner was to undergo bilateral excisional breast biopsy. A March 10, 2016, record showed the pathology result from the right excisional biopsy was fibrocystic changes and focus of acute mastitis, no evidence of atypia or neoplasm. It was noted that the biopsy on the left breast was not done because the duct suspected on that side could not be localized radiologically that morning. The assessment notes indicate Petitioner wanted to pursue prophylactic bilateral mastectomies. An April 21, 2016, record shows Petitioner was scheduled for bilateral mastectomies on May 13, 2016. The assessment notes that Petitioner showed no evidence of breast cancer. A referral to palliative care was discussed for pain management after surgery. (Department Exhibit A, pp. 42-69)

May and June 2016 records from [REDACTED] were submitted. A May 13, 2016, record indicates an encounter diagnosis of breast cancer. A June 8, 2016, record documents a diagnosis of closed extra-articular fracture of distal end of left radius. Petitioner was prescribed a shower chair related to the fractured wrist. (Petitioner Exhibit 1, pp. Q-FF)

May 2016 through June 2016 records from [REDACTED] were submitted. These records indicate treatment for multiple conditions including low back pain, sacroiliitis, trochanteric bursitis left hip, and left wrist pain. (Petitioner Exhibit 1, pp. GG-AAA)

April and May 2016, records from [REDACTED] indicate tissue expander for breast reconstruction and drain for wound healing. (Petitioner Exhibit 1, pp. BBB-GGG)

As previously noted, Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Petitioner has presented medical evidence establishing that she does have some limitations on the ability to perform basic work activities. The medical evidence has

established that the Petitioner has an impairment, or combination thereof, that has more than a *de minimis* effect on the Petitioner's basic work activities. Further, the impairments have lasted, or can be expected to last, continuously for 90 days; therefore, the Petitioner is not disqualified from receipt of SDA benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Petitioner's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The evidence confirms recent diagnosis and treatment of multiple conditions including chronic pain syndrome, radicular pain, disc degeneration, fibromyalgia, trochanteric bursitis left hip, headache, diabetes, nipple discharge, insomnia, PTSD, anxiety, and depression.

Based on the objective medical evidence, considered listings included: 1.00 Musculoskeletal System, 11.00 Neurological, and 12.00 Mental Disorders. However, the medical evidence was not sufficient to meet the intent and severity requirements of any listing, or its equivalent. Accordingly, the Petitioner cannot be found disabled, or not disabled, at Step 3; therefore, the Petitioner's eligibility is considered under Step 4. 20 CFR 416.905(a).

Before considering the fourth step in the sequential analysis, a determination of the individual's residual functional capacity ("RFC") is made. 20 CFR 416.945. An individual's RFC is the most he/she can still do on a sustained basis despite the limitations from the impairment(s). *Id.* The total limiting effects of all the impairments, to include those that are not severe, are considered. 20 CFR 416.945(e).

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50

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

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty to function 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.*

The evidence confirms recent diagnosis and treatment of multiple conditions including chronic pain syndrome, radicular pain, disc degeneration, fibromyalgia, trochanteric bursitis left hip, headache, diabetes, nipple discharge, insomnia, PTSD, anxiety, and depression. Petitioner's testimony indicated she can walk less than 2 minutes, stand a couple minutes, has to constantly shift while sitting and prop her feet up, and lift no more than 5 pounds. Petitioner's testimony indicated the use of several assistive devices, including a walker. Petitioner also had a recent fall and broke her left arm. Petitioner described trouble being in public, trouble sleeping, frequent crying spells, difficulties with memory and concentration, anger trouble, and panic attacks. Petitioner's testimony regarding her limitations is mostly supported by the medical evidence and found partially credible.

The CMH Case Manager testified that there have been several times when someone from her team is out with Petitioner and Petitioner is unable to handle any sort of stress. For example, if Petitioner feels she is not being heard she can be verbally aggressive. The CMH Case Manager indicated Petitioner could not work with the public and at this point it would be expected that Petitioner would have difficulties interacting with co-

workers and supervisors. The CMH Case Manager agrees with the doctor's opinion regarding workplace stress limitations on the Fibromyalgia Syndrome Medical Assessment form. (CMH Case Manager Testimony; Petitioner Exhibit 1, p. C)

Petitioner's combination of physical and mental impairments would be expected to preclude performance of the full range of sedentary work activities on a sustained basis. After review of the entire record it is found, at this point, that Petitioner does not maintain the residual functional capacity to perform sedentary work as defined by 20 CFR 416.967(a) on a sustained basis.

The fourth step in analyzing a disability claim requires an assessment of the Petitioner's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). 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 considered. 20 CFR 416.960(b)(3).

Petitioner has a work history including home health aide, correctional officer, and police officer. In light of the entire record and Petitioner's RFC (see above), it is found that Petitioner is not able to perform her past relevant work. Accordingly, the Petitioner cannot be found disabled, or not disabled, at Step 4; therefore, the Petitioner's eligibility is considered under Step 5. 20 CFR 416.905(a).

In Step 5, an assessment of Petitioner's residual functional capacity 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). At the time of hearing, Petitioner was [REDACTED] years old and, thus, considered to be a younger individual for disability purposes. Petitioner completed an Associate's Degree in Law Enforcement and has a work history including home health aide, correctional officer, and police officer. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Petitioner to the Department to present proof that the Petitioner has the residual capacity to 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). 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).

The evidence confirms recent diagnosis and treatment of multiple conditions including chronic pain syndrome, radicular pain, disc degeneration, fibromyalgia, trochanteric

bursitis left hip, headache, diabetes, nipple discharge, insomnia, PTSD, anxiety, and depression. As noted above, Petitioner does not maintain the residual functional capacity to perform a full range of sedentary work as defined by 20 CFR 416.967(a) on a sustained basis.

After review of the entire record, and in consideration of the Petitioner's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, Petitioner is found disabled at Step 5.

In this case, the Petitioner is found disabled for purposes SDA benefits as the objective medical evidence establishes physical and mental impairments that met the federal SSI disability standard with the shortened duration of 90 days. In light of the foregoing, it is found that Petitioner's impairments did preclude work at the above stated level for at least 90 days.

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 disabled for purposes of the SDA benefit program.


DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Initiate a review of the application dated March 11, 2016, for SDA, if not done previously, to determine Petitioner's non-medical eligibility. The Department shall inform Petitioner of the determination in writing. The Department shall supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy. A review of this case shall be set for November 2016.

CL/mc



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

Petitioner

[REDACTED]