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GOVERNOR

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

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DIRECTOR

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Date Mailed: April 1, 2016
MAHS Docket No.: 16-000271
Agency No.: ██████████
Petitioner: ██████████

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 March 14, 2016, from Detroit, Michigan. Petitioner was present and testified. He was represented by ██████████, his mother and authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine that Petitioner was not disabled for purposes of the Medical Assistance (MA-P) and 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 July 1, 2015, Petitioner submitted an application for public assistance seeking MA-P and SDA benefits.
2. On November 24, 2015, the Medical Review Team (MRT)/ Disability Determination Service (DDS) found Petitioner not disabled for purposes of MA-P and SDA (Exhibit A, pp. 8-22).
3. On December 1, 2015, the Department sent Petitioner a Notice of Case Action denying the application based on MRT's finding of no disability (Exhibit A, pp. 3-4).

4. On January 11, 2016, the Department received Petitioner's timely written request for hearing (Exhibit A, p. 2).
5. Petitioner alleged disabling impairment due to leg and back pain, degenerative disc disease (DDD), lesions on the spine, arthritis, seizure disorder, hydrocephalus, and depression.
6. At the time of hearing, Petitioner was [REDACTED] years old with an [REDACTED], birth date; he was [REDACTED] in height and weighed [REDACTED] pounds.
7. Petitioner is a high school graduate.
8. Petitioner has an employment history of work as a factory worker.
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 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.

MA-P and SDA benefits are available to disabled individuals. BEM 105 (October 2014), p. 1; BEM 260 (July 2015), pp. 1-4; BEM 261 (July 2015), p. 1. Disability for MA-P purposes is 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(a). To meet this standard, a client must satisfy the requirements for eligibility for Supplemental Security

Income (SSI) receipt under Title XVI of the Social Security Act. 20 CFR 416.901. A person who meets this standard for at least ninety days is eligible for SDA. BEM 261, p. 2.

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

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

In this case, 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 of an individual's alleged impairment(s) is considered. If the individual does not have a severe medically determinable physical or mental impairment that meets the duration requirement, or a combination of impairments that is severe and meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii).

The duration requirement for MA-P 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 12 months. 20 CFR 416.922. For SDA, the duration requirement is 90 days. BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). 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); see also *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985). Basic work activities means the abilities and aptitudes necessary to do most jobs, including (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).

In the present case, Petitioner alleges disabling impairment due to leg and back pain, DDD, lesions on the spine, arthritis, seizure disorder, hydrocephalus resulting in three shunts, and depression. The medical evidence presented at the hearing was reviewed and is summarized below.

In July 2011, Petitioner had surgery to resolve a left ankle fracture. At the December 20, 2011 office visit, it was found that Petitioner was walking with a slight limp but with significant improvement and he was found eligible to return to work with no restrictions. (Exhibit A, pp. 141-166, 252-259.)

Petitioner's medical history includes hydrocephalus, seizure disorder, and strabismic amblyopia of the right eye. Petitioner has a history of multiple stents due to hydrocephalous as an infant and a history of seizure disorder resulting in loss of consciousness and balance problems. A January 19, 2001 electroencephalography report showed that Petitioner had controlled partial complex seizures (Exhibit A, p. 262). At a June 12, 2015 office visit with his primary care physician, it was noted that Petitioner was on medication to control his seizures and reported that his last seizure was years earlier (Exhibit A, pp. 198-200). The record indicates he had over 70 surgeries in connection with the hydrocephalus, including placement of shunts, but no shunt problem since he was in the fifth grade (Exhibit A, p. 256).

Office notes from Petitioner's primary care physician from June 30, 2015 to January 6, 2015 reflect treatment for ongoing back pain; leg pain and myalgia, with no arthralgia, joint swelling, joint stiffness, or limb swelling; abnormal gait; unsteadiness and resulting falls; and forgetfulness. It was noted that his gait was abnormal and he walked with a stiff leg. His lower lumbar spine was tender and he had pain with bilateral straight leg raise and with external rotation of the bilateral hips. In August 12, 2015 office visit, Petitioner reported increased incidents of falling. He was referred to physical therapy

and reported some relief from his leg and back pain. On November 24, 2015, Petitioner was seen for a routine clinic follow-up of his seizure disorder. (Exhibit 1, pp. 11-26; Exhibit A, pp. 172-173, 201-2).

A July 14, 2014 lumbar spine x-ray showed mild lower thoracolumbar curvature with convexity to the right which might be purely positional and mild lumbar spondylosis with moderately severe L1-L2, L2-L3 and moderate L5-S1 disc space narrowing (Exhibit A, pp. 223-224). An August 20, 2015 lumbar spine MRI showed moderate degenerative change of the lumbar spine without fracture and mild degenerative spine stenosis at T12-L1 and L1-L2 levels due to combination of bulging annulus and facets and ligamentous hypertrophy (Exhibit A, pp. 249-250).

A November 15, 2015 cervical spine MRI in response to ataxia showed minimal narrowing of the spinal canal at C1-C2 level probably related to postoperative scarring from the suboccipital craniotomy and a conclusion that the ataxia could be related to postoperative malacic changes of the cerebellum (Exhibit 1, p. 2). A November 16, 2015 brain MRI noted status post occipital craniotomy with malacic change of the cerebellum probably related to ataxia; multiple posterior fossae and frontal ventriculostomy tubes without hydrocephalus; and ferromagnetic artifacts projecting over the right frontal lobe. (Exhibit 1, p. 3.) A January 16, 2016 polysomnography report showed an Epworth sleepiness scale score of 6 (Exhibit 1, pp. 7-8).

On June 30, 2015, Petitioner was seen by his primary care physician for an initial evaluation of depression (Exhibit A, pp. 201-204, 235-237). On November 11, 2015, at the Department's request, Petitioner was examined by a licensed psychologist who prepared a psychiatric/psychological medical report. Based on her examination, the doctor diagnosed Petitioner with depressive disorder, neurocognitive disorder, and alcohol use disorder, in full sustained remission. The psychologist concluded that Petitioner (i) could understand simple and one-step instructions and work procedures but may have difficulty consistently remembering them; (ii) may have difficulty understanding and remembering complex and multi-step instructions and work procedures; (iii) may have problems concentrating and will not be able to persist through a typical 8-hour day; (iv) should be able to maintain socially appropriate behavior and hygiene and grooming; and (v) should be able to adjust to changes in his routine and environment. His prognosis was guarded and he was deemed unable to manage his benefit funds. (Exhibit A, pp. 33-36.)

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 12 months. 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 of whether 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), 11.03 (epilepsy, nonconvulsive), 11.08 (spinal cord or nerve root lesions), 11.18 (cerebral trauma), 12.02 (organic mental disorders), and 12.04 (affective disorders) were considered. 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. Therefore, 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 Step 4, 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). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the 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).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If the limitations and restrictions imposed by the individual's impairment(s) and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b). 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 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. 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 addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of mental functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

In this case, Petitioner alleges both exertional and nonexertional limitations due to his medical condition. Petitioner testified that he could walk up to a block if he used his cane and, sometimes, a walker. He could stand no more than 10 minutes and had difficulty using stairs. He could sometimes sit up to an hour without a problem and other times his legs and back would lock up limiting him to sitting no more than 10 minutes. He could lift 5 pounds, sometimes a gallon of milk. He lived alone and took care of his personal hygiene and dressed himself. His mother took care of all his household

chores because he could not stand very long, and his stepfather took care of all the outside chores. He could drive, and he shopped with his mother. His mother explained that she had to assist him in shopping because he could not lift things from the bottom shelf. She added that Petitioner had increased incidents of falling up to once a month and a lazy right eye that had affected his vision. Petitioner testified that he had participated in physical therapy which had helped his condition. His mother noted that surgery had been recommended for his DDD and spinal cyst.

The medical evidence showed that Petitioner had been diagnosed with partial complex seizures, but the condition was controlled with medication. A November 16, 2015 brain MRI confirmed the presence of three ventricular shunt catheters but no hydrocephalus. The MRI also showed malacic change of the cerebellum that could be related to Petitioner's ataxia. A July 14, 2014 lumbar spine x-ray showed mild lower thoracolumbar curvature and mild lumbar spondylosis with moderately severe L1-L2, L2-L3 and moderate L5-S1 disc space narrowing. An August 20, 2015 lumbar spine MRI showed moderate degenerative change of the lumbar spine and mild degenerative spine stenosis at T12-L1 and L1-L2 levels. A November 15, 2015 cervical spine MRI showed minimal narrowing of the spinal canal at C1-C2 level. Petitioner's doctor's notes show that his gait was abnormal, he walked with a stiff leg, and he had pain with bilateral straight leg raise and with external rotation of the bilateral hips. This evidence was sufficient to support Petitioner's testimony that he has limitations in his ability to stand and to balance. While Petitioner testified that he had limitations on his ability to sit and to lift and carry, he is able to sit if alternated with standing. It is further noted that Petitioner acknowledged that his pain improved with his medication and physical therapy. 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 sedentary work as defined by 20 CFR 416.967(a).

Petitioner also alleged nonexertional limitations due to his mental condition, vision problems, and memory problems. His mother, as well as the Department worker, pointed out that Petitioner had a visible issue with his right eye. However, there was no medical evidence showing that Petitioner's vision was affected or that his eye problem resulted in any restrictions in his ability to perform basic work activities. Petitioner testified that he was depressed and that, although he had received treatment in the past and ended treatment because he believed his issues were resolved, he found that his depression had intensified over the course of the last six months. He did visit with family and friends consistently. He also complained of memory issues and how these problems had resulted in the loss of his previous long-term employment.

In the November 11, 2015 independent psychiatric/psychological medical report, the examining psychologist diagnosed Petitioner with depressive disorder, neurocognitive disorder, and alcohol use disorder, in full sustained remission and concluded that Petitioner should be able to maintain socially appropriate behavior and hygiene and grooming and to adjust to changes in his routine and environment. However, he may have difficulty understanding and remembering complex and multi-step instructions and work procedures and concentrating and would not be able to persist through a typical 8-

hour day. While he could understand simple and one-step instructions and work procedures, the psychologist concluded that he may have difficulty consistently remembering them. His prognosis was guarded and he was deemed unable to manage his benefit funds. Based on the medical record presented, as well as Petitioner's testimony, Petitioner has moderate limitations in his mental ability to engage in activities of daily living; mild limitations in his mental ability to engage in social functioning; and moderate to marked limitations in his concentration, persistence or pace. He has had no episodes of decompensation.

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's work history in the 15 years prior to the application consists of employment for over 10 years as a factory worker. This prior employment, based on the fact that it required standing a full day and lifting 30 pounds consistently, is properly categorized as involving medium physical exertion. Based on the exertional RFC analysis above, Petitioner is limited to no more than sedentary work activities. Based on his exertional RFC, it is found that Petitioner is unable to perform 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. *Id.*

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 SGA. 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, Petitioner was ■ years old at the time of application and ■ years old at the time of hearing and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He is a high school graduate with a history of unskilled work experience. As discussed above, Petitioner maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities. In this case, based on Petitioner's age, education, work experience, and exertional RFC, the Medical-Vocational Guidelines, 201.27, result in a finding that Petitioner is not disabled based on his exertional limitations. However, Petitioner also has a nonexertional RFC that results in moderate to marked limitations in his concentration, persistence or pace, with the consulting psychologist specifically finding that Petitioner would not be able to persist through a typical 8-hour day and, even though he is able to understand simple and one-step instructions and work procedures, he would have difficulty consistently remembering them. Petitioner's inability to sustain work activities in an ordinary work setting on a regular and continuing basis preclude him from being able to engage in basic work activities. Because Petitioner's nonexertional RFC precludes him from being able to adjust to other work, Petitioner is disabled at Step 5. In this case, Petitioner is found disabled for purposes of the MA-P program and, therefore, disabled for purposes of SDA benefit program.

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds Petitioner disabled for purposes of the MA-P and SDA benefit programs.

DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Process Petitioner's July 1, 2015 MA-P and SDA application to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;

2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified;
3. Review Petitioner's continued eligibility in September 2016.



ACE/tlf

Alice C. Elkin

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

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