



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: February 14, 2017  
MAHS Docket No.: 16-017280  
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, an in-person hearing was held on January 31, 2017, from Midland, Michigan. [REDACTED], Petitioner, appeared on her own behalf. 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:

Department Exhibit A:

- o Department's Hearing Summary (Exhibit A, p. 1)
- o July 22, 2016, Assistance Application (Exhibit A, pp. 2-26)
- o July 28, 2016, Authorization to Release Protected Health Information (Exhibit A, pp. 27-29)
- o July 28, 2016, Reimbursement Authorization (Exhibit A, p. 30)
- o July 28, 2016, Medical-Social Questionnaire (Exhibit A, pp. 31-36)
- o July 28, 2016, Authorization to Release Protected Health Information (Exhibit A, pp. 37-39)
- o July 28, 2016, Reimbursement Authorization (Exhibit A, p. 40)
- o November 7, 2016, Notice of Case Action (Exhibit A, pp. 41-44)
- o November 16, 2016, Hearing Request (Exhibit A, pp. 45-47)
- o February 2016 through May 2016, records from [REDACTED] ([REDACTED]) (Exhibit A, pp. 48-88)
- o Disability Determination Services (DDS) Development and Documentation coversheet (Exhibit A, p. 89)
- o July 28, 2016, Authorization to Release Protected Health Information (Exhibit A, pp. 90-92)

- July 28, 2016, Reimbursement Authorization (Exhibit A, p. 93)
- July 28, 2016, Medical-Social Questionnaire (Exhibit A, pp. 94-99)
- September 19, 2016, request to Petitioner to complete a DHS-49G Activities of Daily Living Form (Exhibit A, pp. 100-102)
- September 22, 2016, DHS-49G Activities of Daily Living Form (Exhibit A, pp. 103-106)
- DDS Medical Records Coversheet (Exhibit A, p. 107)
- June 2016 through July 2016, records from [REDACTED] (REDACTED) for [REDACTED] (Exhibit A, pp. 108-111)
- September 9, 2016, response from [REDACTED] indicating they were unable to find the requested records of treatment (Exhibit A, pp. 112-115)
- July 2016 through August 2016, records from [REDACTED] (Exhibit A, pp. 116-124)
- February 29, 2016, record from [REDACTED] (Exhibit A, pp. 125-129)
- April 12, 2016, letter to Petitioner from the [REDACTED] (REDACTED) letter regarding the hearing process (Exhibit A, p. 130)
- June 2015 through August 2016, records from [REDACTED] (Exhibit A, pp. 131-140)
- April 29, 2016, letter to Petitioner from [REDACTED] (Exhibit A, p. 141)
- April 2014 through August 2016, records from [REDACTED] (Exhibit A, pp. 142-163)
- December 2015 through May 2016, records from [REDACTED] (Exhibit A, pp. 164-189)
- August 2016, Case Development Sheet (Exhibit A, pp. 190-195)
- October 25, 2016, Physical Residual Functional Capacity Assessment (Exhibit A, pp. 196-203)
- October 19, 2016, Psychiatric Review Technique (Exhibit A, pp. 204-217)
- October 19, 2016, Mental Residual Functional Capacity Assessment (Exhibit A, pp. 218-221)
- April 2014 through August 2016, records from [REDACTED] (Exhibit A, pp. 222-260)
- February 2016 through May 2016, records from [REDACTED] (Exhibit A, pp. 261-301)
- DDS Medical Records Coversheet (Exhibit A, p. 302)
- February 2016 through May 2016, records from [REDACTED] (Exhibit A, pp. 303-345)
- August 2015 through September 2016, records from [REDACTED] (Exhibit A, pp. 346-486)
- DDS Decisions/Payment Documents Coversheet (Exhibit A, p. 487)
- October 26, 2016, Medical-Social Eligibility Certification (Exhibit A, pp. 488-494)

- November 21, 2016, Department Coversheet (Exhibit A, p. 495)

Department Exhibit B:

- March 27, 2016, record from [REDACTED] (Exhibit B, p. 1)
- December 6, 2016, record from [REDACTED] (Exhibit B, pp. 2-8)
- December 2015 through May 2016, record from [REDACTED] (Exhibit B, pp. 9-35)
- February 2016 through November 2016, record from [REDACTED] (Exhibit B, pp. 36-84)
- February 2016 through March 2016, records from [REDACTED] (Exhibit B, pp. 85-102)
- February 27, 2016, record from [REDACTED] (Exhibit B, pp. 103-104)
- DDS Decisions/Payment Documents Coversheet (Exhibit B, p. 105)
- October 26, 2016, Medical-Social Eligibility Certification (Exhibit B, pp. 106-112)

Petitioner Exhibit 1:

- January 27, 2017, record from [REDACTED] (Exhibit 1, pp. 1-6)
- January 27, 2017, Support Plan (Exhibit 1, pp. 7-8)
- January 27, 2017, denial of Inpatient Hospitalization Services (Exhibit 1, pp. 9-10)
- November 6, 2013, records and certification from [REDACTED] (Exhibit 1, pp. 11-13)
- December 2016, records from [REDACTED] (Exhibit 1, pp. 14-24)

**ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of the 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 22, 2016, Petitioner applied for SDA. (Exhibit A, pp. 2-26)
2. On October 26, 2016, the Medical Review Team/Disability Determination Services (MRT/DDS) found Petitioner not disabled. (Exhibit A, pp. 488-494)

3. On November 7, 2016, the Department notified Petitioner of the MRT/DDS determination. (Exhibit A, pp. 41-44)
4. On November 16, 2016, the Department received Petitioner's timely written request for hearing. (Exhibit A, pp. 45-47)
5. Petitioner alleged disabling impairments including irritable bowel syndrome (IBS), chronic migraines, fibromyalgia, obesity, vertigo, depression, post-traumatic stress disorder (PTSD), and anxiety. (Exhibit A, pp. 31-36; 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 high school and has a work history including child care, cleaning technician, dietary aide, and unlicensed Certified Nurse Aide (CNA). (Exhibit A, pp. 32; 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, Petitioner is not involved in substantial gainful activity. Therefore, Petitioner is not ineligible for disability benefits under Step 1.

The severity of Petitioner's alleged impairment(s) is considered under Step 2. 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 IBS, chronic migraines, fibromyalgia, obesity, vertigo, depression, PTSD, and anxiety. (Exhibit A, pp. 31-36; 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.

February 2016 through May 2016, records from [REDACTED] and [REDACTED] document assessment for dysuria, pelvic pain, abnormal uterine bleeding, morbid obesity, intrauterine device (IUD) insertion and check up, IUD removal, placement of a different IUD, sexually transmitted disease exposure, and vaginal candidiasis. (Exhibit A, pp. 48-88; 261-301; and 303-345)

July 2016 through August 2016, records from [REDACTED] document diagnosis and treatment of IBS with diarrhea and gastroesophageal reflux disease (GERD). It was noted that while Petitioner's stools were positive for clostridium difficile (c. diff) toxin on [REDACTED], the repeat study on [REDACTED], was negative. (Exhibit A, pp. 116-124)

June 2015 through September 2016, records from [REDACTED] document assessment for multiple conditions, including: fibromyalgia, vertigo, acute sinusitis, bilateral hip pain, morbid obesity, joint pain, IBS, abdominal pain, GERD, chest pain, insomnia with sleep apnea, vaginal candidiasis, c. diff diarrhea, hemorrhoids, anal fissure, rectal pain, and panic disorder without agoraphobia. The April and May 2016, records, in part, indicate Petitioner was increasing her exercise and walking to try to lose weight. The [REDACTED], record specifies that Petitioner was walking approximately 3-4 blocks to her mother's house as well as around the apartment where she lives. Petitioner was encouraged to try to do 1-2 more blocks extra. May 2016 through July 2016, physical therapy (PT) records show that Petitioner was referred to PT for pain in bilateral shoulders, neck and low back. Petitioner's PT treatment consisted of developing an independent home exercise program for Petitioner to continue to independently work toward her goals of weight management and improved mobility. A [REDACTED], x-ray of the bilateral hips was negative. (Exhibit A, pp. 131-140 and 346-486; Exhibit B, pp. 50-84)

October 2016 through December 2016, record from [REDACTED] documented assessment for multiple conditions including chronic nausea, fibromyalgia, left shoulder pain, nasal pain, benign paroxysmal positional vertigo, syncope, chronic right hip pain, morbid obesity, and short-term memory loss. The [REDACTED], record, in part, noted that a CT for the hip pain was normal. Petitioner was to continue non-steroidal anti-inflammatories and would be given a note to move to a ground floor apartment because it was currently difficult for her to get to higher floors. The [REDACTED], record indicated: a tilt table test was

to be scheduled; the memory issues may be related to Petitioner's multiple medications; the fibromyalgia was not completely controlled and there are significant residual symptoms; and Petitioner had done well with weight loss, needed a prior authorization submitted for a medication to assist with this, and Petitioner was encouraged to continue dietary changes and exercise. (Exhibit B, pp. 2-8 and 36-49)

December 2015 through May 2016, records from [REDACTED] document assessment for staring spell, migraine headache, and fibromyalgia. The [REDACTED], record indicates that Petitioner's headaches and body pain is better with the current medications and further weight loss was encouraged. It was noted that a MRI of the brain and LP studies showed no major abnormality, and an EEG was normal. (Exhibit A, pp. 164-189)

Petitioner was hospitalized [REDACTED], for: strep throat; angioedema; cellulitis; fever; morbid obesity; and tobacco user. (Exhibit 1, pp, 14-24)

Records from [REDACTED] and [REDACTED] document that Petitioner was admitted to crisis residential services on [REDACTED], and was discharged on [REDACTED]. Petitioner's diagnosis was major depressive disorder, recurrent, moderate. The assessment of immediate needs were decrease suicidal ideations, identify coping skills and natural supports. (Exhibit A, pp. 125-129; Exhibit B, pp. 85-104)

April 2014 through August 2016, records from [REDACTED] included an April 2014, psychiatric evaluation documenting axis I diagnoses of PTSD and major depressive disorder, recurrent, moderate. January 2016 through May 2016, medical review reports document axis I diagnoses of major depressive disorder, recurrent, moderate; generalized anxiety disorder, and PTSD. A [REDACTED], Medical Review indicates Petitioner's anxiety and depression were stable. A [REDACTED] Psychosocial Assessment again noted the same diagnoses. In part, this assessment indicated Petitioner was independent with all daily living skills except transportation. A [REDACTED], Person Centered Plan (PCP) Meeting documented only one goal for Petitioner, developing an effective system to ensure she has transportation. (Exhibit A, pp. 108-111; 142-163; and 222-260; Exhibit B, pp. 1 and 9-35)

A [REDACTED], record from [REDACTED] documents that Petitioner was seen in the emergency department for diagnoses of anxiety and depression. (Exhibit 1, pp. 1-6) A [REDACTED], Support Plan was also submitted. (Exhibit 1, pp. 7-8) Further, there was a [REDACTED], denial of Inpatient Hospitalization Services based on Petitioner not meeting clinical eligibility criteria. (Exhibit 1, pp. 9-10)

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 Petitioner has an impairment, or combination thereof, that has more than a *de minimis* effect on Petitioner's basic work activities. Further, the impairments have lasted, or can be expected to last, continuously for 90 days; therefore, 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 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 impairments including: abnormal uterine bleeding; morbid obesity; IBS; GERD; fibromyalgia; pain in the shoulders neck, back, and hips; migraines; vertigo; syncope; strep throat; angioedema; cellulitis; depression; anxiety; and PTSD.

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. For example, the imaging and testing reports did not show significant abnormalities regarding the physical impairments. Further, the mental health treatment records did not document a severity of mental functioning limitations nor frequency and duration of treatment and minimal capacity for adjustment to meet the B or C criteria for listings 12.04 or 12.06. Accordingly, Petitioner cannot be found disabled, or not disabled, at Step 3; therefore, 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 impairments including: abnormal uterine bleeding; morbid obesity; IBS; GERD; fibromyalgia; pain in the shoulders neck, back, and hips; migraines; vertigo; syncope; strep throat; angioedema; cellulitis; depression; anxiety; and PTSD. Petitioner's testimony indicated she can walk 15 minutes, stand 15-20 minutes, sit 15-20 minutes, and lately has had some trouble lifting a gallon of milk. Petitioner's testimony regarding her limitations is not fully supported by the medical evidence and found only partially credible. For example, Petitioner's testimony indicated she has had trouble with pain in her hands as well as difficulty gripping and grasping. Petitioner stated she was recently diagnosed with carpal tunnel syndrome. However, there are no recent medical records documenting this additional diagnosis and the related symptoms.

Overall, the internal medicine records indicate Petitioner was being encouraged to increase her exercise and walking. In November 2016, and December 2016, Petitioner's doctor did indicate that he would write a note to support her moving to a ground floor apartment, and that Petitioner had significant residual symptoms that would affect prolonged standing and sitting, but he also encouraged ongoing exercise regarding weight loss. (Exhibit A, pp. 131-140 and 346-486; Exhibit B, pp. 2-8 and 36-84) Additionally, the [REDACTED] treatment records from the time period around the July 22, 2016, SDA application indicate Petitioner's anxiety and depression were stable, she was independent with all daily living skills except transportation, and the only goal in the PCP related to developing an effective system for transportation. While there was a [REDACTED], emergency room visit for anxiety and depression, the submitted record from that visit does not provide much detail beyond the diagnoses. The only other records from that date were a written support plan and a denial of inpatient hospitalization services. (Exhibit B, pp. 1-10)

After review of the entire record it is found, at this point, that Petitioner maintains the residual functional capacity to perform limited sedentary work as defined by 20 CFR 416.967(a) on a sustained basis. Limitations would include a sit/stand option.

The fourth step in analyzing a disability claim requires an assessment of 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 child care, cleaning technician, dietary aide, and unlicensed CNA. (Exhibit A, p. 32; Petitioner Testimony). As described by Petitioner, all of her past work that was full time or close to full time involved lifting in excess of 50 pounds. 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, Petitioner cannot be found disabled, or not disabled, at Step 4; therefore, 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 high school and has a work history including child care, cleaning technician, dietary aide, and unlicensed Certified Nurse Aide (CNA). (Exhibit A, pp. 31-32; Petitioner Testimony). 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 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 impairments including: abnormal uterine bleeding; morbid obesity; IBS; GERD; fibromyalgia; pain in the shoulders neck, back, and hips; migraines; vertigo; syncope; strep throat; angioedema; cellulitis; depression; anxiety; and PTSD. As noted above, Petitioner maintains the residual functional capacity to perform limited sedentary work as defined by 20 CFR 416.967(a) on a sustained basis. Limitations would include a sit/stand option. Even considering these limitations, significant jobs would still exist in the national economy.

After review of the entire record, and in consideration of Petitioner's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.27, Petitioner is found not disabled at Step 5.

In this case, Petitioner is found not disabled for purposes SDA benefits as the objective medical evidence does not establish a physical or mental impairment 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 not 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 not disabled for purposes of the SDA benefit program for the July 22, 2016, SDA application.

**DECISION AND ORDER**

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.

Accordingly, the Department's determination is AFFIRMED.

CL/bb



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**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]

[REDACTED]

[REDACTED]

[REDACTED]

**Petitioner**

[REDACTED]