



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: March 6, 2017  
MAHS Docket No.: 17-000734  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

**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 [REDACTED], from Detroit, Michigan. The Petitioner was present for the hearing and her mother/witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Medical Contact Specialist.

**ISSUE**

Did the Department properly determine that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On [REDACTED], the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program. Exhibit A, pp. 2-8.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability. Exhibit A, pp. 519-520.
4. On [REDACTED], the Department received Petitioner's timely written request for hearing. Exhibit A, pp. 519-521.

5. Petitioner alleged disabling impairments based on obesity, polycystic ovary syndrome, sleep apnea, uterine cancer, thyroid problems, high blood pressure, hypertension, back/arm/hand pain, blood clot in the thighs, anemia, lumbar disc herniation, deep venous thrombosis, and depression and anxiety.
6. On the date of the hearing, Petitioner was [REDACTED] years old with a date of birth of [REDACTED]; she was [REDACTED] in height and weighed [REDACTED] pounds.
7. Petitioner is a high school graduate and with some college (no degree).
8. At the time of application, Petitioner was on medical leave from her employment since [REDACTED].
9. Petitioner has an employment history of work as a cashier, home care provider, and a market researcher.
10. Petitioner has a pending appeal for a disability claim with the Social Security Administration (SSA).

### **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 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.

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (July 2015), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Determining whether an individual is disabled for SSI purposes requires the application of a five-step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has

the residual functional capacity to perform past relevant work; and (5) has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945. If an individual is found disabled, or not disabled, at any step in this process, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

### **Step One**

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

In this case, Petitioner was not working during the period for which assistance might be available. Because Petitioner was not engaged in SGA, she is not ineligible under Step 1; and the analysis continues to Step 2.

### **Step Two**

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR

416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the *de minimis* standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. SSR

85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.*; SSR 96-3p.

In the present case, Petitioner alleges disabling impairment based on obesity, polycystic ovary syndrome, sleep apnea, uterine cancer, thyroid problems, high blood pressure, hypertension, back/arm/hand pain, blood clot in the thighs, anemia, lumbar disc herniation, deep venous thrombosis, and depression and anxiety. The medical evidence presented at the hearing was reviewed and is summarized below.

In office visits dated in [REDACTED], Petitioner was diagnosed by her doctor with polycystic ovarian syndrome, morbid obesity due to excess calories, lower back, and right foot pain. Exhibit A, pp. 201-203.

In an emergency room visit dated [REDACTED], Petitioner was diagnosed with dysfunctional uterine bleeding. Exhibit A, p. 344. Petitioner was then admitted to the hospital on [REDACTED], due to her complaint of vaginal bleeding. Exhibit A, p. 346. Petitioner had a dilation and curettage of uterus and was diagnosed with abnormal uterine bleeding and polycystic ovarian syndrome. Exhibit A, p. 348.

In an emergency room visit dated [REDACTED], a bilateral venous duplex was conducted; and there was no evidence of acute deep vein thrombosis of the right or left lower extremity. Exhibit A, p. 184. Petitioner was diagnosed with chest pain, unspecified chest pain, shortness of breath (SOB), anxiety, pulmonary nodules, and thyroid mass. Exhibit A, p. 238. On [REDACTED], Petitioner had imaging of the chest thorax, which resulted in the finding of left paratracheal mass, which correlates with the patient's known finding of enlarged left thyroid lob, asymmetric increased density overlying left lower chest, and no acute process otherwise identified. Exhibit A, p. 252.

On [REDACTED], Petitioner had a total thyroidectomy for the goiter conducted and was diagnosed with retrosternal thyroid and morbid obesity. Exhibit A, pp. 298-307.

On [REDACTED], Petitioner had an x-ray of her chest that found mild cardiomegaly with vascular congestion, which may be partly technical, no focal airspace disease, and tip of endotracheal tube lies 4.5 cm above carina, and no pneumothorax. Exhibit A, p. 312.

In a clinic visit dated [REDACTED], Petitioner was assessed with morbid obesity due to excess calories, polycystic ovarian syndrome, and hypothyroidism. Exhibit A, p. 198.

In an emergency room visit dated [REDACTED], the doctor diagnosed Petitioner with endometrial adenocarcinoma International Federation of Gynecologists and Obstetricians (FIGO) grade 2, with squamous differentiation, after a surgical specimen exam was conducted. Exhibit A, pp. 113, 117, and 131. The doctor noted Petitioner has many large clots in vaginal vault, and the opening of the cervix (cervical os) difficult to assess due to bleeding and patient habitus. Exhibit A, p. 106. The doctor diagnosed Petitioner with obesity and with a body mass index (BMI) of 64.17 kg. Exhibit A, p. 116.

On [REDACTED], a doctor completed a letter indicating Petitioner is under the doctor's care; and it is of the doctor's medical opinion that she cannot return to work until further notice. Exhibit A, p. 35.

On [REDACTED], Petitioner was admitted to the hospital due to her long history of abnormal uterine bleeding and her being diagnosed with endometrial adenocarcinoma FIGO grade 2. Exhibit A, p. 145. On [REDACTED], Petitioner had a total hysterectomy procedure, bilateral salpingo-oophorectomy, bilateral pelvic sentinel lymph node dissection and cystoscopy, in order to treat the endometrial cancer. Exhibit A, p. 148. The doctor's findings were a small uterus with the normal tubes and ovaries bilateral, no evidence of extra uterine disease, negative survey of the pelvis and abdomen, normal omentum, no peritoneal lesions, and identified the sentinel nodes. Exhibit A, p. 148. On [REDACTED], Petitioner was discharged from the hospital. Exhibit A, p. 230.

On [REDACTED], Petitioner had pathology results from the hysterectomy that found the following: (i) endometrioid adenocarcinoma of the endometrium with squamous differentiation, FIGO grade 1 (of 3) with extensive involvement of deep adenomyosis,

negative for myoinvasion, and positive for cervical mucosal involvement, negative for cervical stromal invasion; (ii) myometrium with adenomyosis; and (iii) fallopian tubes and ovaries without significant diagnostic abnormality. Exhibit A, pp. 151-152.

In a progress note dated [REDACTED], Petitioner reported that she is doing well since the surgery; and her overall energy level is improving. Exhibit A, p. 168.

On [REDACTED], a doctor completed a letter indicating that based on the doctor's medical opinion, Petitioner can return to work on [REDACTED]. Exhibit A, p. 45.

In a progress note dated [REDACTED], Petitioner was diagnosed with obstructive sleep apnea (OSA) on continuous positive airway pressure (CPAP), morbid obesity due to excess calories, and polycystic ovarian syndrome. Exhibit A, p. 172.

On [REDACTED], Petitioner was admitted to the hospital and was diagnosed with dysuria, hip injury, left, initial encounter. Exhibit A, pp. 177-178. X-rays of Petitioner on [REDACTED], found a normal examination of her left hip and no acute fracture of subluxation of the middle sacral spine after she fell one week prior and complained of low back pain. Exhibit A, pp. 179-180.

On [REDACTED], Petitioner was admitted to the hospital and was discharged on [REDACTED]. She was diagnosed with high blood pressure, urinary tract infection, acquired underactive thyroid, morbid obesity with BMI of 60.0-69.9, adult, sleep apnea, polycystic ovaries, goiter, endometrial cancer, anemia, uremia, low sodium levels, abnormal bleeding from uterus, and right leg swelling. Exhibit C, p. 6.

On [REDACTED], a doctor completed a letter indicating that Petitioner has been under the doctor's care since [REDACTED]. Exhibit C, p. 5. The doctor noted that Petitioner was diagnosed with endometrial cancer; hence, she went under a hysterectomy in [REDACTED]. Exhibit C, p. 5. The doctor noted that Petitioner was also diagnosed with hypothyroidism and is under treatment. Exhibit C, p. 5. The doctor noted that Petitioner was admitted to the hospital in [REDACTED] and diagnosed with deep venous thrombosis (DVT) and indicated she is unable to return to work for a minimum of six (6) months depending on her health. Exhibit C, p. 5.

In an emergency room visit dated [REDACTED], the doctor diagnosed Petitioner with pain of right lower extremity and chronic deep vein thrombosis (DVT) of other vein of right lower extremity (CMS-hcc). Exhibit C, p. 16.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Petitioner suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Petitioner has satisfied the requirements under Step 2; and the analysis will proceed to Step 3.

### **Step Three**

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 1.04 (disorders of the spine), 3.00 (respiratory disorders), 3.09 (chronic pulmonary hypertension due to any cause), 4.11 (chronic venous insufficiency), 7.05 (hemolytic anemias), 9.00 (endocrine disorders), 12.04 (affective disorders), 12.06 (anxiety-related disorders), and 13.23 (cancers of the female genital tract – carcinoma or sarcoma) 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 Steps 4 and 5, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual Functional Capacity (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 individual's impairments and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting,

carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b).

The exertional requirements, or physical demands, of work in the national economy are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a). Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools and occasionally walking and standing. 20 CFR 416.967(a). Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds; even though the weight lifted may be very little, a job is in the light category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b). Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. 20 CFR 416.967(e).

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi). For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In 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 her medical condition. Petitioner indicated that she has blood clots in her thighs that



prevents her from working. She also claimed obesity, back pain, arm and leg numbness, hypertension, thyroid problems, uterine cancer, and deep venous thrombosis. She can't stand or sit for a long time. She needs assistance doing chores and going up and down the stairs. She testified she can lift a maximum of 1 pound, she can stand only for 5 minutes, she can sit for 20 minutes, and then she needs to lay down. She is mostly able to dress/undress herself, bathe/shower, but needs assistance in preparing meals or grocery shopping. She can walk up to less than a half a block and cannot lift a gallon of milk. She indicated that she suffers from depression and anxiety. She can't concentrate or remember instructions, and not sure if she can't work with others due to anxiety. Of note, the Department observed Petitioner during the hearing and testified that Petitioner walks slowly, she walks a couple of feet and sits down, and seems out-of-breath from the walk, and she seems sad. It should also be noted that the hearing had to be stopped a couple of times because Petitioner began to cry.

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources and nonmedical sources. SSR 16-3p.

On [REDACTED], a doctor completed a letter indicating that Petitioner has been diagnosed with endometrial cancer, hypothyroidism, and deep venous thrombosis (DVT). Exhibit C, p. 5. Moreover, Petitioner was discharged from the hospital on [REDACTED]; and she was diagnosed with high blood pressure, urinary tract infection, acquired underactive thyroid, morbid obesity with BMI of 60.0-69.9, adult, sleep apnea, polycystic ovaries, goiter, endometrial cancer, anemia, uremia, low sodium levels, abnormal bleeding from uterus, and right leg swelling. Exhibit C, p. 6. This evidence was sufficient to support Petitioner's allegations of obesity, back pain, thyroid problems, uterine cancer, OSA on CPAP, and deep venous thrombosis (DVT).

On [REDACTED], the doctor diagnosed Petitioner with anxiety during her emergency room visit. Exhibit A, p. 238. Moreover, during an office visit on [REDACTED], the doctor diagnosed Petitioner with anxiety disorder due to general medical condition with generalized anxiety and major depression, single episode. Exhibit A, p. 214. The doctor also indicated screening for depression in a [REDACTED] visit. Exhibit A, pp. 203-204. Therefore, Petitioner also has a medical diagnosis supporting her symptoms of depression and anxiety.

With respect to the intensity, persistence and limiting effects of her symptoms, the medical evidence included Petitioner's visits with her doctors and hospitalization records. The evidence established that Petitioner had a long history of abnormal uterine bleeding, and she was diagnosed with endometrial adenocarcinoma FIGO grade 2. Exhibit A, pp. 113, 117, and 131. On [REDACTED], a doctor completed a letter indicating Petitioner cannot return to work until further notice.

Exhibit A, p. 35. Petitioner eventually had a total hysterectomy procedure completed on [REDACTED], in order to treat the endometrial cancer. Exhibit A, p. 148. Subsequent to these procedures, Petitioner reported on [REDACTED], that she is doing well since the surgery; and her overall energy level is improving. Exhibit A, p. 168. In fact, her doctor completed a letter indicating that she can return to work on [REDACTED]. Exhibit A, p. 45. Petitioner did not return to work, and she continued to go to the ER and/or doctor's visits due to her alleged medical impairments; and she was subsequently diagnosed with OSA on CPAP, morbid obesity due to excess calories, and polycystic ovarian syndrome. Exhibit A, p. 172. From [REDACTED], to [REDACTED], Petitioner was hospitalized and diagnosed with high blood pressure, urinary tract infection, acquired underactive thyroid, morbid obesity with BMI of 60.0-69.9, adult, sleep apnea, polycystic ovaries, goiter, endometrial cancer, anemia, uremia, low sodium levels, abnormal bleeding from uterus, and right leg swelling. Exhibit C, p. 6. On [REDACTED], her doctor completed a letter indicating that Petitioner was diagnosed with hypothyroidism and is under treatment. Exhibit C, p. 5. The doctor noted that Petitioner was admitted to the hospital in [REDACTED] and diagnosed with DVT and indicated she is unable to return to work for a minimum of six (6) months "depending on her health." Exhibit C, p. 5. It would be expected that Petitioner's obesity would impact her musculoskeletal system and limit her physical capacity to perform work activities. SSR 02-1p. It should also be noted that Petitioner's doctor opined that Petitioner could not return to work "depending on her health." The undersigned Administrative Law Judge (ALJ) does not dispute the doctor's opinion because her work at the time required medium physical exertion; and the undersigned ALJ finds that she is only capable of sedentary work, which means she would be unable to perform this past relevant work as shown in Step 4 below.

Accordingly, the undersigned Administrative Law Judge (ALJ) finds that based on a review of the entire record, including Petitioner's testimony, the evidence was sufficient to establish that Petitioner maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a).

With respect to Petitioner's nonexertional limitations, the medical evidence was less extensive. The undersigned ALJ reviewed the medical evidence and found that Petitioner has been diagnosed with anxiety during her emergency room visits. Exhibit A, p. 238. Moreover, during an office visit on [REDACTED], the doctor diagnosed Petitioner with anxiety disorder due to general medical condition with generalized anxiety and major depression, single episode. Exhibit A, p. 214. The doctor also indicated screening for depression in a [REDACTED] visit. Exhibit A, pp. 203-204. Petitioner further indicated that she feels her anxiety attacks and depression affect her ability to work. Petitioner stated she feels people are looking at her and judging her, and she cries every day.

Based on the medical record presented, as well as Petitioner's testimony, Petitioner has mild limitations to her activities of daily living; mild limitations to her social functioning; and mild limitations to her concentration, persistence or pace.

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 work as a cashier, home care provider, and market researcher. Petitioner's work as a cashier required standing substantially all day and lifting up to 20 to 30 pounds regularly, which required medium physical exertion. Her work as a home care provider required 4 hours of standing and lifting up to 5 pounds regularly, which required light physical exertion. Her work as a market researcher required standing substantially; and there was no lifting involved with this employment, which resulted in light physical exertion.

Based on the RFC analysis above, Petitioner is limited to no more than sedentary work activities and has mild limitations in her mental capacity to perform basic work activities. In light of the entire record and Petitioner's RFC, including her mental limitations, 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**

If an individual is incapable of performing past relevant work, Step 5 requires an assessment of the individual's RFC and age, education, and work experience to determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v); 20 CFR 416.920(c). If the individual can adjust to other work, then there is no disability; if the individual cannot adjust to other work, then there is a disability. 20 CFR 416.920(a)(4)(v).

At this point in the analysis, the burden shifts from Petitioner to the Department to present proof that Petitioner has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(c)(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).

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 hearing, and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. Petitioner is a high school graduate and with some college (no degree) and a history of unskilled work experience. As discussed above, Petitioner maintains the exertional RFC for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities. 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 her exertional limitations.

While the Medical-Vocational Guidelines do not result in a disability finding based on Petitioner's exertional limitations, Petitioner medical record also shows nonexertional limitations resulting in mild limitations to her activities of daily living; mild limitations to her social functioning; and mild limitations to her concentration, persistence or pace. It is found that those limitations would not preclude her from engaging in simple, unskilled work activities on a sustained basis. Therefore, Petitioner is able to adjust to other work and is not disabled at Step 5.

Accordingly, after review of the entire record, including Petitioner's testimony, and in consideration of Petitioner's age, education, work experience, physical as well as mental RFC, Petitioner is found not disabled at Step 5 for purposes of the SDA benefit program.

**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**.

EJF/jaf



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**Eric J. Feldman**  
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]

[REDACTED]