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: May 3, 2017
MAHS Docket No.: 17-002789
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on [redacted], from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [redacted], medical contact worker.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) eligibility for the reason that Petitioner is not a disabled individual.

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 applied for SDA benefits.

2. Petitioner's only basis for SDA benefits was as a disabled individual.

3. On [redacted], the Disability Determination Service determined that Petitioner was not a disabled individual (see Exhibit 1, pp. 6-12), in part, based on a Disability Determination Explanation (Exhibit 1, pp. 13-28).

4. On [redacted], MDHHS denied Petitioner's application for SDA benefits and mailed a Notice of Case Action informing Petitioner of the denial.
5. On [redacted], Petitioner requested a hearing disputing the denial of SDA benefits.

6. As of the date of the administrative hearing, Petitioner did not have employment earnings amounting to substantial gainful activity.

7. As of the date of the administrative hearing, Petitioner was a 44-year-old female.

8. Petitioner's highest education year completed was the 12th grade.

9. Petitioner has a history of unskilled employment, with no known transferrable job skills.

10. Petitioner has various impairments which do not preclude the performance of sedentary employment.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. MDHHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. MDHHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of a SDA application. Petitioner claimed an inability to work for 90 days due to mental and/or physical disabilities. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-3) dated [redacted] verifying Petitioner's application was denied based on a determination that Petitioner was not disabled.

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (July 2015), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id*. To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (January 2012), p. 1. A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Id.

Generally, state agencies such as MDHHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally 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 [90 days for SDA eligibility]. 20 CFR 416.905.

SGA means a person does the following: performs significant duties, does them for a reasonable length of time, and does a job normally done for pay or profit. *Id*., p. 9. Significant duties are duties used to do a job or run a business. *Id*. They must also have a degree of economic value. *Id*. The ability to run a household or take care of oneself does not, on its own, constitute SGA. *Id*.

The person claiming a physical or mental disability has the burden 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 ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. 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).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2016 monthly income limit considered SGA for non-blind individuals is [redacted]

Petitioner credibly denied performing current employment; no evidence was submitted to contradict Petitioner's testimony. Based on the presented evidence, it is found that Petitioner is not performing SGA. Accordingly, the disability analysis may proceed to the second step.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the durational requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id*.

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)

- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon petitioners to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen,* 880 F2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirements are intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Petitioner's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with a summary of presented medical documentation.

Physician office visit notes (Exhibit 1, p. 223) dated [redacted], were presented. Diagnoses for controlled HTN and controlled schizophrenia were noted.

Various handwritten psychiatric office visit notes (Exhibit 1, pp. 267-300) from [redacted], were presented. Recurring depression was noted. A [redacted] overnight hospitalization was noted; it was noted Petitioner hit a wall while off of medications (details were not provided). In [redacted], Petitioner reported her family members tried to kill her and that she was homeless; a GAF of 30 was noted. In [redacted], treatment of 3 visits per week were planned; Petitioner reported wanting to be more comfortable in groups and maintaining focus.

Handwritten psychiatric office visit notes (Exhibit 1, pp. 242-244) dated [redacted], were presented. Treatment for depression was noted. It was noted Cymbalta was prescribed.

Handwritten psychiatric office visit notes (Exhibit 1, pp. 242-244) dated [redacted], were presented. Petitioner reported "doing well" and had a "good" mood. Cymbalta was noted to be helping Petitioner.

Handwritten psychiatric office visit notes (Exhibit 1, pp. 239-241) dated [redacted] were presented. It was noted Petitioner reported working at a full-time retail job. Petitioner reported a good mood, in part, due to Cymbalta.

Handwritten psychiatric office visit notes (Exhibit 1, pp. 236-238) dated [redacted], were presented. A recent hospitalization for chest pain was noted. Recent cocaine use was also noted; Petitioner reported it was a 1-time-only usage.

Handwritten psychiatric office visit notes (Exhibit 1, pp. 233-235) dated [redacted], were presented. Petitioner reported concern for a son she was unable to locate. Petitioner was noted to be “doing well” on medications.

An internal medicine examination report (Exhibit 1, pp. 252-257) dated [redacted], was presented. The report was noted as completed by a consultative physician, based on a disability claim. Petitioner reported a medical history of back pain. Notable physical examination findings included the following: normal gait, full muscle strength, lumbar spasms, positive straight-leg-raising testing. It was noted Petitioner performed tandem gait and walked on toes. It was noted Petitioner could handle objects with fine and gross dexterity. Lumbar x-rays were noted to not indicate stenosis or fractures. No restrictions were apparent.

Physician office visit notes (Exhibit 1, pp. 220-222) dated [redacted], were presented. It was noted Petitioner reengaged with the physician after living out-of-town for a few years. Ongoing treatment for bipolar disorder, HTN, chronic lumbar pain, and chronic bilateral knee pain was noted. It was noted Petitioner would bring a lumbar radiology report to a future appointment.

Physician office visit notes (Exhibit 1, pp. 213-214) dated [redacted], were presented. Petitioner complained of lumbar pain radiating to knees. Blood pressure was noted to be “much improved.” Morbid obesity was noted.

Physician office visit notes (Exhibit 1, pp. 210-211) dated [redacted] were presented. Diagnoses of HTN, bipolar disorder, lumbar pain, and bilateral knee pain (treated by sports medicine doctors) were noted. It was noted x-rays of knees demonstrated marked bilateral arthritis; aqua therapy and an injection were recommended. A normal gait was noted.

Physician office visit notes (Exhibit 1, pp. 208-209) dated [redacted], were presented. It was noted Petitioner complained of sleep apnea and was supposed to undergo a sleep study. Splints were planned for complaints of CTS. It was noted Petitioner was awaiting an orthopedist appointment to treat knees. It was noted Petitioner’s BMI was 50. A walking cane was ordered to address back and knee pain.
Physician office visit notes (Exhibit 1, pp. 203-207) dated [redacted], were presented. Lumbar tenderness and need for a cane were noted. CTS splints were ordered.

Physician office visit notes (Exhibit 1, pp. 198-202) dated [redacted], were presented. A normal gait was noted. PT for Petitioner's knee was pending. Prilosec was noted to improve GERD symptoms. A walking cane was ordered to help with lumbar and knee pain.

Physician office visit notes (Exhibit 1, pp. 196-197) dated [redacted], were presented. It was noted Petitioner completed PT for her knees, but missed several appointments. It was also noted Petitioner used a cane. Lumbar pain, GERD, knee arthritis, CTS, and HTN were noted. Various medications were continued. Drug testing was ordered.

Physician office visit notes (Exhibit 1, pp. 192-195) dated [redacted] were presented. Treatment for a urinary tract infection was noted. It was noted drug testing in [redacted] indicated lack of compliance. A normal gait was noted, though it was also noted Petitioner used a cane. Lumbar pain, GERD, knee arthritis, CTS, and HTN were noted. Various medications were continued.

A mental status examination report (Exhibit 1, pp. 183-185) dated [redacted], was presented. The report was noted as completed by a consultative licensed psychologist. Various reported diagnoses were noted; related symptoms were noted as apparently absent. Noted observations of Petitioner made by the consultative examiner included the following: orientation x3, low-average immediate memory, impaired long-term memory, adequate fund of information, impaired formal judgment. An impression of major depressive disorder (recurrent and moderate) was noted. A guarded prognosis was given.

An internal medicine examination report (Exhibit 1, pp. 172-181) dated [redacted], was presented. The report was noted as completed by a consultative physician. Petitioner reported a medical history of various psychological problems, CTS, knee pain, HTN, sleep apnea, back pain, and obesity. Muscle strength was noted to be 5/5. It was noted Petitioner could pick up a coin with either hand. Squatting difficulty was noted. It was noted Petitioner was unable to perform tandem gait or toe walking. Bilateral knee palpation was noted. Elevated blood pressure was noted. The examiner stated that clinical evidence supported a need for a cane. Poor balance was noted. Various reduced lumbar ranges of motion were noted. Knee range of motion was not restricted. An attached bilateral knee x-ray report (Exhibit 1, p. 181) noted bilateral knee arthritis (worse on left). "At least" moderate impairment to performing walking, lifting, crawling, pulling, bending, and squatting were noted.

Petitioner alleged disability primarily based on bilateral knee arthritis. Petitioner testified she attends PT, receives injections, and takes pain medications. Petitioner testified she was advised by physicians that surgery would not help.
Petitioner testified she is 5'2" and weighs 308 pounds. A BMI of 50 and a morbid obesity diagnosis were verified. Petitioner testified weight loss has not been discussed by her primary care physician, pain management physician, or sports rehabilitation physician.

Petitioner testified she has restrictions related to back pain. Petitioner testified she wears a back brace and began receiving injections in [redacted].

Petitioner alleged impairments related to CTS. Petitioner testified she wears braces for both of her wrists. Petitioner testified she can write.

Petitioner testified she has various psychological diagnoses including PTSD, depression, bipolar disorder, and borderline personality disorder. Petitioner testified symptoms include paranoia around crowds, isolationist behavior, and mood swings. Petitioner testified she sees a psychologist monthly.

Presented medical records verified treatment for CTS, knee problems, back pain, and depression. Presented documents were indicative of degrees of restrictions to ambulation, standing, lifting, bending, concentration, and hand dexterity. Petitioner's treatment history was established to have lasted at least 90 days and at least since Petitioner's date of SDA application. Accordingly, it is found that Petitioner established having a severe impairment and the disability analysis may proceed to Step 3.

The third step of the sequential analysis requires determining whether the Petitioner's impairment, or combination of impairments, is listed in 20 CFR Part 404, Subpart P, appendix 1. 20 CFR 416.920 (a)(4)(iii). If a petitioner's impairments are listed and deemed to meet the durational requirement, then the petitioner is deemed disabled. If the impairment is unlisted or impairments do not meet listing level requirements, then the analysis proceeds to the next step.

A listing for joint dysfunction (Listing 1.02) was considered based on Petitioner's complaints of knee pain. The listing was rejected due to a failure to establish that Petitioner is unable to ambulate effectively. It was also not established that Petitioner is unable to perform fine and gross movements with upper extremities.

A listing for spinal disorders (Listing 1.04) was considered based on Petitioner's lumbar complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Petitioner required a highly supportive living arrangement, suffered repeated episodes of decompensation, or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

It is found that Petitioner failed to establish meeting (or equaling) a SSA listing. Accordingly, the analysis moves to the fourth step.

The fourth step in analyzing a disability claim requires an assessment of the Petitioner's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a petitioner can perform past relevant work. *Id*.

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 not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Petitioner testified she had past employment as a security guard. Petitioner testified her duties included "wanding" building entrants.

Petitioner testified she also worked as a commercial cleaner. Petitioner testified her duties included cleaning offices and bathrooms.

Petitioner's past jobs were indicative of duties requiring extensive periods of standing. Given verified physician statements of severe knee arthritis, it is improbable that Petitioner could perform past employment.

It is found that Petitioner is unable to perform past employment. Accordingly, the analysis may proceed to the final step.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. 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). To determine the physical demands (i.e. 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 are considered non-exertional. 20 CFR 416.969a(a). Examples of non-exertional limitations 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 (e.g. 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.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).
Given Petitioner's age, education and employment history a determination of disability is dependent on Petitioner's ability to perform sedentary employment. For sedentary

employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

Petitioner testified she relies on a rolling walker with a seat. Petitioner testified knee pain restricts her to walking 4 stairs or 1 block. Petitioner estimated her standing is restricted to 5-minute periods Petitioner testified she is uncertain of lifting/carrying restrictions.

Petitioner testified her son is her caregiver. Petitioner testified she needs assistance getting in and out of a bathtub due to knee difficulties. Petitioner testified she sometimes needs help with shirt buttons. Petitioner testified her son has to wash and style her hair. Petitioner testified she does no housework. Petitioner testified her son also does her shopping. Petitioner testified she cannot walk down the 7-8 stairs to do laundry.

Petitioner's statements concerning standing, walking, and ADLs was highly indicative of an inability to perform any level of employment. Petitioner's testimony was not always consistent with documented statements.

On [redacted], a consultative examiner noted that Petitioner reported an ability to stand for 1 hour (see Exhibit 1, p. 172). On [redacted], a consultative psychologist noted Petitioner performs ADLs independently and does not require assistance other than with laundry (see Exhibit 1, p. 184). It is possible that Petitioner's abilities significantly lessened since making the statements, however, presented treatment documents were not indicative of such regression. These considerations lessen Petitioner's credibility concerning her abilities.

Treating physician statements of Petitioner restrictions were not presented. Restrictions can be inferred based on presented documents.

On [redacted], a consultative examiner documented "at least" moderate impairment to performing walking, lifting, crawling, pulling, bending, and squatting. A need for a cane was also documented. Severe arthritis and a need for a cane was documented by a treating physician. The treatment could conceivably preclude the performance of sedentary employment. Other evidence was less indicative.

A normal gait was documented as recently as [redacted]. This was the most current statement concerning Petitioner's gait from a treating physician. The same physician also noted Petitioner's noncompliance with medication. The statement was indicative that Petitioner was not taking prescribed pain medication. Petitioner's apparent failure to take pain medication is indicative of pain which does not need to be controlled by medication. These considerations are indicative of an ability to perform the exertional requirements of sedentary employment.

On [redacted], a consultative physician noted Petitioner had full muscle strength and a full range of knee motion. The statements were not indicative of knee problems that would preclude the performance of sedentary employment.

Treatment for lumbar pain was documented. Lumbar x-rays were noted to show no abnormality. Inexplicably, more detailed radiology (e.g. MRI) verifying a need for treatment was not presented. The absence of a radiology report is particularly perplexing considering a physician documented that Petitioner possessed such a radiology report. The absence of radiology raises doubts concerning the severity of Petitioner's lumbar pain and/or restrictions.

A need for CTS splints was documented. A need for splints may be indicative of dexterity restrictions. Other evidence was less indicative of restrictions.

On [redacted], a consultative physician noted Petitioner could pick up a coin with either hand. The examining physician noted multiple exertional restrictions, though none concerning Petitioner's hands.

Treatment history of CTS might preclude Petitioner from performing jobs heavily reliant on dexterity (e.g. watch assembly), but not jobs involving less intricate dexterity (e.g. writing, typing…). CTS is not found to significantly limit Petitioner's sedentary employment opportunities.

Petitioner has some degree of psychological impairment. A past history of psychiatric hospitalization was reported during the hearing and documented in medical records. Little evidence of significant ongoing impairment was verified.

Petitioner testified she had a breakdown when talking with her psychologist in [redacted]. Petitioner testified the breakdown required her to be treated at an emergency room. Petitioner testified she was also hospitalized for 4 days in [redacted] for a breakdown. Neither encounter was verified.

Petitioner appeared to cease psychiatric treatment after [redacted] as no encounters were documented. Presumably, Petitioner receives medication from her primary care physician, but no additional treatment. No treatment records were presented suggesting notable psychological restrictions after [redacted]

A consultative examiner noted Petitioner showed impaired judgment and long-term memory. Moderate depression was also noted. Accepting the restrictions would likely preclude Petitioner from performance of complex employment, but not simpler forms of employment. No evidence of social restrictions was verified.

MDHHS did not present vocational evidence of jobs available to Petitioner. Jobs within the Dictionary of Occupational Titles that are appropriate for Petitioner would include telemarketing, light assembly, data entry, receptionist, customer service telephone representative, and others. Such jobs are not presumed to be insufficiently available that vocation evidence is needed to justify their availability. It is found that sufficiently available sedentary employment exists for Petitioner.

Based on Petitioner's exertional work level (sedentary), age (younger individual 18-44), education (high school graduate), and employment history (unskilled), Medical-Vocational Rule 201.27 is found to apply. This rule dictates a finding that Petitioner is not disabled. Accordingly, it is found that MDHHS properly found Petitioner to be not disabled for purposes of SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SDA benefit application dated [redacted], based on a determination that Petitioner is not disabled. The actions taken by MDHHS are **AFFIRMED**.

CG/hw

Christian Gardocki
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]