



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 23, 2017  
MAHS Docket No.: [REDACTED] 17-007649  
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] [REDACTED] from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

**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).
4. On [REDACTED], MDHHS denied Petitioner's application for SDA benefits.
5. On [REDACTED], Petitioner requested a hearing disputing the denial of SDA benefits (see Exhibit 1, p. 1)

6. On [REDACTED], an administrative hearing was held.
7. During the hearing, Petitioner and MDHHS waived the right to receive a timely hearing decision.
8. During the hearing, the record was extended 7 days to allow Petitioner to submit a lumbar spine MRI report.
9. On [REDACTED], an Interim Order Extending the Record was subsequently mailed to both parties.
10. On [REDACTED], Petitioner submitted additional documents (Exhibits A, pp. 1-2).
11. As of the date of the administrative hearing, Petitioner did not have employment earnings amounting to substantial gainful activity.
12. As of the date of the administrative hearing, Petitioner was a 49-year-old female who was born in September.
13. Petitioner has various exertional and non-exertional restrictions which partially impact Petitioner's ability to perform sedentary and light employment.
14. MDHHS did not present evidence of employment available to Petitioner which is within Petitioner's capabilities.

### **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. 2-3) 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 (April 2017), p. 5. 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 (April 2017), p. 1. A person is disabled for SDA purposes if he or she meets any of the following criteria:

- Receives other specified disability-related benefits or services....
- Resides in a qualified Special Living Arrangement (SLA) facility.
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS)...

*Id.*, pp. 1-2.

When the person does not meet one of the [above] criteria, [MDHHS is to] follow the instructions in BAM 815, Medical Determination and Disability Determination Service (DDS), Steps for Medical Determination Applications. *Id.*, p. 4. The DDS will gather and review the medical evidence and either certify or deny the disability claim based on the medical evidence. *Id.* The review of medical evidence is primarily outlined by federal law.

[State agencies] must use the same definition of disability as used under SSI... 42 C.F.R. § 435.540(a). [Federal] law defines disability 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 C.F.R. § 416.905(a).

MDHHS adopted a functionally identical definition of disability (see BEM 260 (July 2015), p. 10). The same definition applies to SDA, though SDA eligibility factors only a 90-day period of disability.

In general, you have to prove... that you are blind or disabled. 20 C.F.R. § 416.912(a). You must inform us about or submit all evidence known... that relates to whether or not you are blind or disabled. *Id.* Evidence includes, but is not limited to objective medical evidence (e.g. medical signs and laboratory findings), evidence from other medical sources (e.g. medical history and opinions), and non-medical statements about symptoms (e.g. testimony) (see *Id.*).

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

The first step in the process considers a person's current work activity (see 20 C.F.R. §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].

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.*

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.

At the second step, we consider the medical severity of your impairment(s). 20 C.F.R. §416.920 (a)(4)(ii). If you do not have a severe medically determinable physical or mental impairment that meets the duration requirement in § 416.909, or a combination of impairments that is severe and meets the duration requirement, we will find that you are not disabled. *Id.*

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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> Cir. 1988). Similarly, SSR 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 (1<sup>st</sup> 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 (1<sup>st</sup> Cir. 1986).

If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. 20 C.F.R. § 416.920 (5)(c). We will not consider your age, education, and work experience. *Id.* The second step analysis will begin with a summary of presented medical documentation and Petitioner's testimony.

A lumbar MRI report (Exhibit 1, pp. 104-107) dated [REDACTED], was presented. A normal report was noted.

Social worker therapy notes (Exhibit 1, pp. 259-260) dated [REDACTED], were presented. It was noted that a Mental Residual Functional Capacity Assessment was completed; the assessment was not presented.

Psychiatric office visit notes (Exhibit 1, pp. 253-258) dated [REDACTED], were presented. Petitioner reported increased depression after losing a disability hearing. Petitioner's Effexor dosage was increased.

Social worker therapy notes (Exhibit 1, pp. 251-252) dated [REDACTED], were presented. Petitioner again reported being disappointed after losing a disability hearing.

Primary care physician office visit notes (Exhibit 1, pp. 75-76) dated [REDACTED], were presented. Petitioner complained of chronic lumbar pain, worsened with activity. Anxiousness, nervousness, and headaches were also reported. Naprosyn was prescribed for back pain. A CT scan was planned for complaints of headache.

A biopsychosocial assessment dated [REDACTED], was presented. The assessment was completed by a treating social worker. It was noted a typical day includes Petitioner going to her closet for an hour so she can talk with her deceased sister.

Social worker therapy notes (Exhibit 1, pp. 232-233) dated [REDACTED] were presented. Various family problems were discussed.

A Psychiatric Evaluation (Exhibit 1, pp. 224-231) dated [REDACTED], was presented. It was noted that Petitioner was an ongoing patient since March 2015. Petitioner reported "severe" depression which began in 1990 when Petitioner's sister was murdered. Petitioner reported she started psychiatric treatment in [REDACTED], but stopped after 5 months because she was feeling better. A short term of mental health treatment from [REDACTED] was also reported. Petitioner's reported symptoms included audio hallucinations with a deceased sister, visual hallucinations which include seeing dead people and seeing herself on television. Mental health assessments of Petitioner included intact memory, alert, distractible concentration, fair judgment, delusional thought content, unremarkable speech, and depressed and anxious mood. A GAF of 52 from [REDACTED] was noted. Medications were adjusted.

Psychiatric office visit notes (Exhibit 1, pp. 218-223) dated [REDACTED], were presented. Petitioner's ongoing audio hallucinations of deceased sister and paranoid thoughts were noted. Effexor dosage was increased.

Primary care physician office visit notes (Exhibit 1, pp. 73-74) dated [REDACTED] were presented. It was noted that Petitioner presented for a wellness check and had no acute concerns. Tobacco cessation was recommended. Regular exercise was recommended.

Social worker therapy notes (Exhibit 1, pp. 215-217) dated [REDACTED], were presented. Petitioner goals of gaining income, improving physical health, and improving mental health were discussed.

Psychiatric office visit notes (Exhibit 1, pp. 209-214) dated [REDACTED], were presented. Petitioner reported improved appetite, no hopelessness, "fairly well" sleeping, and improved appetite. Ongoing non-command hallucinations and paranoid thoughts were noted. Medications were updated.

Psychiatric office visit notes (Exhibit 1, pp. 203-208) dated [REDACTED], were presented. Petitioner reported general improvement with medications. Assessments of Petitioner included coherent speech, fair hygiene, and brighter affect. Ongoing reported symptoms included audio hallucinations, paranoid thoughts, and easily distracted. Medications were updated. Side effects were noted to be absent.

Primary care physician summary documents (Exhibit 1, pp. 67-72) dated [REDACTED], were presented. Petitioner's diagnoses included anxiety, depression, fatigue, GERD, hypertension, headache, hyperlipidemia, lumbar pain, neck pain, PTSD, and shoulder pain. Active medications included Tricor, Naprosyn, Zantac, Effexor, Xanax, and Norco.

Psychiatric office visit notes (Exhibit 1, pp. 177-182) dated [REDACTED], were presented. Petitioner reported running out of meds after missing last appointment. Improvement with medications concerning mood swings, sleep, and irritability was noted. Ongoing auditory hallucinations was reported. No medication side effects were noted. Prescribed meds included Effexor and Seroquel.

A treatment plan report (Exhibit 1, pp. 183-202) dated [REDACTED], from a social worker was presented. Case manager, nursing, therapist, and psychiatrist visits were planned.

A mental status examination report (Exhibit 1, pp. 167-170) dated [REDACTED], was presented. The report was completed by a consultative limited licensed psychologist and cosigned by a licensed psychologist. Petitioner reported audio and visual hallucinations of her deceased sister, ongoing since 2008. Petitioner reported no past psychiatric hospitalizations. Petitioner reported victimization of sexual abuse. Noted observations of Petitioner made by the consultative examiner include the following: logical and goal-directed mental activity, mildly constricted mood, polite, and cooperative. A diagnosis of adjustment disorder was noted. A fair prognosis was noted. It was stated that Petitioner showed no acute psychological symptoms which would interfere with social interaction or memory.

Hospital emergency room documents (Exhibit 1, pp. 62-66) dated [REDACTED], were presented. It was noted that Petitioner presented with a left foot "gaping" laceration of 5 cm. Petitioner reported the laceration was caused after her son accidentally kicked a glass she was holding which fell onto her foot. It was noted that Petitioner received 10 stitches.

Petitioner presented a MRI lumbar report (Exhibit A, pp. 1-2) dated [REDACTED]. An impression of moderate left-sided foraminal narrowing at L4-L5 was noted. Moderate

thecal sac effacement caused by a disc bulge at L4-L5, with significantly diminished fluid was also noted at L4-L5.

Petitioner testified she has back pain from arthritis. Petitioner testified she takes Norco to control pain. Petitioner testified she has not attempted physical therapy.

Petitioner testified she has impairments related to depression. Petitioner testified she has never been hospitalized, but has seen a psychiatrist for the last 2-3 years. Petitioner testified that prescribed medication improves her mood, but makes her drowsy. Petitioner testimony estimated that she sleeps 14 hours per day.

Petitioner testified her psychological symptoms are partially related to the murder of her sister. Petitioner testified the murder occurred in the 1990s. Petitioner testified the killer was never caught and that she has recurrent thoughts of the killer coming after her. Petitioner testified she goes into her closet twice a day so she can speak with her sister.

Petitioner testified depression symptoms include audio hallucinations such as hearing footsteps and heavy breathing. Petitioner also testified she hears the voice of her sister's killer. Petitioner testified her symptoms and depression are worsening.

Presented medical records generally verified a medical treatment history consistent with exertional restrictions due to back pain. Presented records also generally verified degrees of concentration and social interaction restrictions due to depression. 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.

At the third step, we also consider the medical severity of your impairment(s). 20 C.F.R. § 416.920 (4)(iii). If you have an impairment(s) that meets or equal one of our listings in appendix 1 to subpart P of part 404 of this chapter and meets the duration requirement, we will find that you are disabled. *Id.* If you have an impairment(s) which meets the duration requirement and is listed in appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. *Id.* 20 C.F.R. § 416.920 (d).

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 a diagnosis of depression. The listing was rejected due to a failure to establish an extreme restriction or multiple marked restrictions to understanding or applying information, interacting with others, concentration or persistence, and/or adaptation. It was also not established that Petitioner had minimal capacity to adapt to changes in environment or to demands that are not already part of daily life.

It is found Petitioner does not meet any SSA listings. Thus, the disability analysis may proceed.

If your impairment(s) does not meet or equal a listed impairment, we will assess and make a finding about your residual functional capacity based on all the relevant medical and other evidence in your case record.... 20 C.F.R. § 416.920 (e). We use our residual functional capacity assessment at the fourth step of the sequential evaluation process to determine if you can do your past relevant work... and at the fifth step of the sequential evaluation process (if the evaluation proceeds to this step) to determine if you can adjust to other work... *Id.*

Your impairment(s), and any related symptoms, such as pain, may cause physical and mental limitations that affect what you can do in a work setting. 20 C.F.R. § 416.945 (a)(1). Your residual functional capacity is the most you can still do despite your limitations. *Id.* We will assess your residual functional capacity based on all the relevant evidence in your case record. *Id.* We will consider all of your medically determinable impairments of which we are aware, including your medically determinable impairments that are not “severe,”... when we assess your residual functional capacity. 20 C.F.R. § 416.945 (a)(2). We will assess your residual functional capacity based on all of the relevant medical and other evidence. 20 C.F.R. § 416.945(a)(3). We will first use our residual functional capacity assessment at step four of the sequential evaluation process to decide if you can do your past relevant work. 20 C.F.R. § 416.945(a)(5).

At the fourth step, we consider our assessment of your residual functional capacity and your past relevant work. 20 C.F.R. § 416.920(a)(4)(iv). If you can still do your past relevant work, we will find that you are not disabled. *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 C.F.R. § 416.960(b)(1). We will not consider your vocational factors of age, education, and work experience or whether your past relevant work exists in significant numbers in the national economy. 20 C.F.R. § 416.960(b)(3).

Petitioner presented her work history from the past 15 years (see Exhibit 1, p. 19). Petitioner’s only reported employment was from [REDACTED] as a hi-lo driver. Petitioner testified she was fired due to poor attendance related to depression symptoms. Petitioner’s testimony implied her concentration would not be strong enough to perform her past duties.

As of [REDACTED], Petitioner’s GAF was 52. The Diagnostic and Statistical Manual of Mental Disorders (4<sup>th</sup> edition) (DSM IV) states that a GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning.



A GAF represents a person's functioning level at a single point in time. It is not necessarily representative of a person's functioning level at all, most, or even occasional times. Given Petitioner's symptoms and treatment history, there is support to finding that the GAF is representative of Petitioner's ongoing functioning level.

A GAF of 52 is indicative of moderate-to-marked concentration restrictions. Employment as a driver would reasonably require high levels of concentration. Restrictions bordering on marked would reasonably preclude Petitioner from performing past employment. It is found that Petitioner is not capable of performing past employment.

If we find that your residual functional capacity does not enable you to do any of your past relevant work or if we use the procedures in § 416.920(h), we will use the same residual functional capacity assessment when we decide if you can adjust to any other work. We will look at your ability to adjust to other work by considering your residual functional capacity and the vocational factors of age, education, and work experience, as appropriate in your case. (See § 416.920(h) for an exception to this rule.) Any other work (jobs) that you can adjust to must exist in significant numbers in the national economy (either in the region where you live or in several regions in the country).

At the fifth and last step, we consider our assessment of your residual functional capacity and your age, education, and work experience to see if you can make an adjustment to other work. 20 C.F.R. § 416.920(a)(4)(v). If you can make an adjustment to other work, we will find that you are not disabled. *Id.* If you cannot make an adjustment to other work, we will find that you are disabled. *Id.*

Your impairment(s) and related symptoms, such as pain, may cause limitations of function or restrictions which limit your ability to meet certain demands of jobs. 20 C.F.R. § 416.969a(a). These limitations may be exertional, nonexertional, or a combination of both. *Id.*

When the limitations and restrictions imposed by your impairment(s) and related symptoms, such as pain, affect only your ability to meet the strength demands of jobs (sitting, standing, walking, lifting, carrying, pushing, and pulling), we consider that you have only exertional limitations. 20 C.F.R. § 416.969a(b). When your impairment(s) and related symptoms only impose exertional limitations and your specific vocational profile is listed in a rule contained in appendix 2, we will directly apply that rule to decide whether you are disabled. *Id.*

When the limitations and restrictions imposed by your impairment(s) and related symptoms, such as pain, affect only your ability to meet the demands of jobs other than the strength demands, we consider that you have only nonexertional limitations or restrictions. 20 C.F.R. § 416.969a(c)(1). Some examples of nonexertional limitations or restrictions include the following... nervousness, anxiousness, depression, attention or concentration deficits, difficulty remembering instructions, vision loss, hearing loss, difficulty with environment (e.g. fumes), hand manipulation, bending, crouching, kneeling, or other body maneuvers (see *Id.*).

If your impairment(s) and related symptoms, such as pain, only affect your ability to perform the nonexertional aspects of work-related activities, the rules in appendix 2 do not direct factual conclusions of disabled or not disabled. 20 C.F.R. § 416.969a(c)(2)

Limitations are classified as exertional if they affect your ability to meet the strength demands of jobs. *Id.* To determine the physical exertion requirements of work in the national economy, we classify jobs as *sedentary, light, medium, heavy, and very heavy*. 20 C.F.R. § 416.967.

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. 20 C.F.R. § 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. *Id.*

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. 20 C.F.R. § 416.967(b). Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. *Id.* If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional 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 C.F.R. § 416.967(c). If someone can do medium work, we determine that he or she can also do sedentary and light 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 C.F.R. § 416.967(d). If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. *Id.*

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 C.F.R. § 416.967(e). If someone can do very heavy work, we determine that he or she can also do heavy, medium, light, and sedentary work. *Id.*

Petitioner turned 50 years-of-age only 3 months after applying for SDA benefits. The final step analysis could consider Petitioner's claim of disability based on the change in age. SSA allows for leniency in such circumstances.

We will not apply the age categories mechanically in a borderline situation. 20 C.F.R. § 404.1563 (b). If you are within a few days to a few months of reaching an older age category, and using the older age category would result in a determination or decision that you are disabled, we will consider whether to use the older age category after evaluating the overall impact of all the factors of your case. *Id.*

Due to the close proximity of Petitioner's age at SDA application and her 50<sup>th</sup> birthday, Petitioner will be given the benefit of an advanced age category. Given Petitioner's age, education and employment history a determination of disability is dependent on Petitioner's ability to perform light employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Petitioner testified she uses a cane when her back pain is particularly bothersome; Petitioner testified the cane was not prescribed to her. Petitioner testified she also uses a back brace. Petitioner estimated she can walk a ½ block. Petitioner testified her standing is limited to 15 minutes; Petitioner also testified that 15 minutes was as long as she could stand within an hour. Petitioner estimated that she could stand for 15 minutes out of an hour. Petitioner testified that her sitting is limited to 30 minutes before she needs to stretch.

Petitioner testified she can independently bathe and shower herself. Petitioner testified that washing her hair is painful and that she is slow in grooming. Petitioner testified her son performs 90% of the housework and that mopping floors is painful. Petitioner testified her son also shops for her.

Petitioner testimony was indicative that she could not sit or walk long enough to perform any employment. The analysis will proceed to consider whether Petitioner's statements were supported by presented medical records.

Presented radiology verified a degree of back pain which could impact Petitioner's ability to perform light employment. Moderate foraminal narrowing and diminished spinal fluid is indicative of pain and dysfunction which could prevent Petitioner from standing or walking for 6 hours in a workday.

Petitioner's back problems would have been better supported had other treatment documents been submitted. Petitioner did not verify any type of treatment for back dysfunction, such as physical therapy or injections. The lack of verified attempted treatment is supportive in finding that Petitioner could perform light employment.

It is found that Petitioner can perform light employment, but not medium employment. The analysis will proceed to consider Petitioner's non-exertional symptoms.

Back pain, depression, and other symptoms such as hallucinations and excessive sleep were indicative of low concentration levels. Petitioner expressed doubt that she could

stay awake for any employment. Assessments of Petitioner's psychological impairments were presented.

A Psychiatric Review Technique (Exhibit 1, pp. 19-33) dated [REDACTED], was presented. The document was signed by a licensed psychologist as part of Petitioner's SSA claim of disability. Mild restrictions to understanding, interaction, and adaptation were noted. A moderate restriction to concentration/persistence was noted. Consideration for Petitioner meeting affective order and anxiety listings was noted; it was concluded Petitioner did not meet considered listings. Petitioner was found to not meet any SSA listings. Various assessments from a psychological progress note dated [REDACTED], were cited as support for the conclusions.

A Mental Residual Functional Capacity Assessment (Exhibit 1, pp. 147-150) dated [REDACTED] were presented. The document was signed by a licensed psychologist as part of Petitioner's SSA claim of disability. Moderate restrictions to the following Petitioner abilities were noted: understanding and remembering detailed instructions, carrying-out detailed instructions, maintaining attention for extended periods, and interacting with the general public. Petitioner had no marked restrictions to any of the 20 listed work-related abilities. Petitioner was deemed to have no significant limitations to completing a normal workday while working at a consistent pace. A consultative medical examination report was the only document cited to support conclusions.

SSA's assessments appeared to be understated. Treatment documents verified an extended period of psychological treatment. Treatment documents documented at least one dramatic symptom (hallucinations) and multiple problematic symptoms (e.g. paranoia, mood swings, anxiety...).

Given Petitioner's low GAF and documented treatment history, it is likely that Petitioner is restricted to only the simplest of employment. Such employment would have to require little social interaction, little thought process, and little independent judgment.

MDHHS presented no evidence of employment within Petitioner's capabilities. Petitioner's symptoms are severe enough that evidence of employment within Petitioner's capabilities is needed. Without evidence of Petitioner's employment opportunities, it must be found that Petitioner is disabled. Accordingly, it is found that MDHHS improperly denied Petitioner's SDA application.

### **DECISION AND ORDER**


The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that MDHHS improperly denied Petitioner's application for SDA benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's SDA benefit application dated [REDACTED];
- (2) evaluate Petitioner's eligibility subject to the finding that Petitioner is a disabled individual;

- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Petitioner is found eligible for future benefits.

The actions taken by MDHHS are **REVERSED**.

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]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]