



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: August 15, 2017
MAHS Docket No.: 17-008863
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

HEARING DECISION

Following Laura Converse, Petitioner's, request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on July 31, 2017, from the Department of Health and Human Services, Traverse City, Michigan. Petitioner appeared and testified on her own behalf. [REDACTED] [REDACTED] Attorney from [REDACTED] represented Petitioner. [REDACTED] [REDACTED] Assistance Payments Supervisor, appeared on behalf of the Department of Health and Human Services (Department).

PROCEDURAL HISTORY

The Department offered the following exhibits that were marked into evidence:

Department's Exhibit No. 1 (pages 1 through 14) is a copy of Petitioner's application for Food Assistance Program (FAP) and cash assistance, also known as State Disability Assistance (SDA).

Department's Exhibit No. 2 (pages 1-4) is a copy of the June 19, 2017, Notice of Case Action, denying Petitioner's application for SDA.

Department's Exhibit No. 3 (pages 1-653) is a copy of Petitioner's medical records. N.B. that there are multiple records that bear the same page number. For example, page 259 is followed by page 230, and the numbering continues consecutively therefrom. References in this Decision are to the pages as numbered by the Department; the entire packet has not been reviewed to determine the correct pagination of every page.

Department's Exhibit No. 4 (pages 1-2) are copies of Petitioner's attorney's appearance, and Petitioner's hearing request.

Petitioner's Exhibit A is a copy of notes from Petitioner's attorney, noting the Social Security listings, and the attorney's opinion as to which listings Petitioner has met.

Petitioner's Exhibit B is a copy of the Disability Determination Explanation for Petitioner's DI claim at the initial level, dated June 7, 2016.

Petitioner's Exhibit C is a copy of the Disability Determination Explanation for Petitioner's DIB claim at the initial level, dated June 7, 2016.

The record was closed at the conclusion of the hearing.

ISSUE

Did the Department properly deny Petitioner's application for State Disability Assistance (SDA) based on the finding that she was not disabled?

FINDINGS OF FACT

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

1. On October 18, 2016, Petitioner filed an application for SDA benefits alleging disability.
2. On June 19, 2017, the Medical Review Team (MRT) denied Petitioner's application.
3. On June 19, 2017, the Department caseworker sent Petitioner notice that her application was denied.
4. On June 29, 2017, Petitioner filed a request for a hearing to contest the Department's action.
5. An in-person hearing was held on July 31, 2017.
6. During the hearing, Petitioner alleged the following disabling impairments: depressive disorder and bi-polar disorder.
7. At the time of the hearing, Petitioner was 36 years old with a birth date of [REDACTED]. Petitioner testified that she was 5 feet 9 inches tall and weighed approximately 135 pounds.
8. Petitioner has earned some college credits. She has been diagnosed with an ADHD. Petitioner is currently unemployed and her past relevant work was in customer service, baking, and sewing. Petitioner has an unskilled

work history that is transferrable to other jobs. Petitioner is not engaged in substantial gainful activity (SGA).

9. During the relevant time period, Petitioner was taking the following medications:
 - a. Vyvanse.
 - b. Vistaril.

10. During the relevant time period, the objective medical records show that Petitioner has the following medical conditions based on medically acceptable clinical and laboratory diagnostic techniques:
 - a. 301.9 Unspecified Personality Disorder with Histrionic and Borderline Traits. (Ex. 3, p. 51.)
 - b. 309.9 Unspecified Trauma and Stressor Related Disorder. (Ex. 3, p. 51.)
 - c. 314.01 Attention Deficit Hyperactivity Disorder. (Ex. 3, p. 51.)
 - d. 303.90 Alcohol Use Disorder in remission. (Ex. 3, p. 51.)
 - e. 304.30 Cannabis Use Disorder in remission. (Ex. 3, p. 51.)

11. On May 16, 2017, Petitioner's treating psychologist found Petitioner "would be able to understand both simple and complex instructions. However, her ability to complete instructions on a sustained basis would be limited due to personality features, ADHD, and anxiety interfering with her ability to concentrate to complete tasks. Problem solving and judgment are limited by personality features. Her ability to manage a normal amount of stress is limited by her anxiety. Her ability to interact with coworkers, authority figures, and the public is impaired due to personality features and anxiety." (Ex. 3, p. 51.) The objective medical records did not contain an opinion from a licensed health professional that Petitioner is disabled. As diagnoses, [REDACTED] identified the following:

301.9 Unspecified Personality Disorder with Histrionic and Borderline Traits
309.9 Unspecified Trauma and Stressor Related Disorder
314.01 Attention Deficit Hyperactivity Disorder

303.90 Alcohol Use Disorder in remission per claimant
304.30 Cannabis Use Disorder in remission per claimant

12. Petitioner has a severe medically determinable impairment or combination of impairments.
13. Petitioner's impairment(s) or combination of impairments meet or medically equal the criteria of a listing.
14. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.
15. Based on the objective medical evidence, Petitioner can perform the following physical functions: walk, stand, sit, lift, push, pull, reach, and carry.
16. Petitioner has the capacity to see, hear, and speak.
17. Petitioner can understand, carry out, and remember simple instructions.
18. Petitioner's use of judgment is impaired and she cannot respond appropriately to supervision, co-workers and usual work situations. Petitioner is unable to deal with changes in a routine work setting.
19. Petitioner has the residual functional capacity to do her past relevant work.
20. Petitioner is not able to adjust to other work. Petitioner maintains the residual functional capacity to perform medium employment on a sustained basis. Petitioner can perform a significant number of jobs in the national economy.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905

The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources. The Petitioner's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only the Petitioner's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the Petitioner has impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Medical findings must allow a determination of: (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e). Statements about pain or other symptoms do not alone establish disability. Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered.

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

At step one, the Administrative Law Judge must determine whether the Petitioner is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he or she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he or she is not disabled regardless of how severe his or her physical or mental impairments are and regardless of his or her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the Petitioner has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If Petitioner does not have a severe medically determinable impairment or combination of impairments, he or she is not disabled.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work). 20 CFR, Part 404, Subpart P, App. 1, 12.00(C). First, an individual's pertinent symptoms, signs and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitations are 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. 20 CFR 416.920(a)(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 and individual's degree of functional limitation. 20 CFR 416.920a(c)(4).

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). An impairment qualifies as non-severe only if, regardless of a Petitioner's age, education, or work experience, the impairment would not affect the Petitioner's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;

- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

At step three, the Administrative Law Judge must determine whether the Petitioner's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the Petitioner's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the Petitioner is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the Petitioner's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his or her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the Petitioner's impairments, including impairments that are not severe, must be considered (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the Petitioner has the residual functional capacity to perform the requirements of his or her past relevant work (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the Petitioner actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the Petitioner to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If Petitioner has the residual functional capacity to do his or her past relevant work, Petitioner is not disabled. If Petitioner is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether Petitioner is able to do any other work considering his or her residual functional capacity, age, education, and work experience. If Petitioner is able to do other work, he or she is not disabled. If Petitioner is not able to do other work and meets the duration requirements, he or she is disabled.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967. The terms are defined as follows:

Sedentary work. 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. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 1, Petitioner is not engaged in SGA and has not worked since April 2016. Therefore, Petitioner is not disqualified from receiving disability and the analysis proceeds to Step 2.

Petitioner alleges disability due to mental disorder, particularly depressive, bipolar, and related disorders. The objective medical evidence in this matter reveals that Petitioner has a mental and/or emotional impairment that can fairly be characterized as “severe” for purposes of the Step 2 analysis. This evidence shows that Petitioner has a medically determinable mental impairment based on documented signs, symptoms, and laboratory findings. As previously noted, Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized in the above Findings of Fact, Petitioner has presented medical evidence establishing that she does have some limitations on the ability to perform basic work activities. The medical evidence has established that Petitioner has an impairment, or combination thereof, that has more than a *de minimis* effect on Petitioner’s basic work activities. In addition, Petitioner has a medically determinable impairment that is “severe” or a combination of impairments that are “severe.” Petitioner’s impairments significantly limit her ability to perform basic work activities. The analysis proceeds to Step 3.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if Petitioner’s impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The following listings were considered in

light of the objective evidence, particularly the testimony from Petitioner and her attorney¹, as well as Exhibit A: 12.04 Depressive, bipolar and related disorders. The medical evidence was sufficient to meet the intent and severity requirements of any listing, or its equivalent. Based on the objective medical evidence, Petitioner's condition meets the criteria of a listing.

12.04 Depressive, bipolar and related disorders (see 12.00B3), satisfied by A and B, or A and C:

- A. Medical documentation of the requirements of paragraph 1 or 2:
1. Depressive disorder, characterized by five or more of the following:
 - a. Depressed mood;
 - b. Diminished interest in almost all activities;
 - c. Appetite disturbance with change in weight;
 - d. Sleep disturbance;
 - e. Observable psychomotor agitation or retardation;
 - f. Decreased energy;
 - g. Feelings of guilt or worthlessness;
 - h. Difficulty concentrating or thinking; or
 - i. Thoughts of death or suicide.
 2. Bipolar disorder, characterized by three or more of the following:
 - a. Pressured speech;
 - b. Flight of ideas;
 - c. Inflated self-esteem;
 - d. Decreased need for sleep;
 - e. Distractibility;
 - f. Involvement in activities that have a high probability of painful consequences that are not recognized; or
 - g. Increase in goal-directed activity or psychomotor agitation.

AND

- B. Extreme limitation of one, or marked limitation of two, of the following areas of mental functioning (see 12.00F):
1. Understand, remember, or apply information (see 12.00E1).
 2. Interact with others (see 12.00E2).
 3. Concentrate, persist, or maintain pace (see 12.00E3).
 4. Adapt or manage oneself (see 12.00E4).

OR

- C. Your mental disorder in this listing category is "serious and persistent;" that is, you have a medically documented history of the existence of the disorder over a period of at least 2 years, and there is evidence of both:
1. Medical treatment, mental health therapy, psychosocial support(s), or a highly structured setting(s) that is ongoing and that diminishes the symptoms and signs of your mental disorder (see 12.00G2b); and

¹ Petitioner's attorney testified because she was able to be more concise with the explanation of the facts upon which Petitioner was basing her claim of disability.

2. Marginal adjustment, that is, you have minimal capacity to adapt to changes in your environment or to demands that are not already part of your daily life (see 12.00G2c).

Depressive, bipolar and related disorders are described as follows:

- a. These disorders are characterized by an irritable, depressed, elevated, or expansive mood, or by a loss of interest or pleasure in all or almost all activities, causing a clinically significant decline in functioning. Symptoms and signs may include, but are not limited to, feelings of hopelessness or guilt, suicidal ideation, a clinically significant change in body weight or appetite, sleep disturbances, an increase or decrease in energy, psychomotor abnormalities, disturbed concentration, pressured speech, grandiosity, reduced impulse control, sadness, euphoria, and social withdrawal.
- b. Examples of disorders that we evaluate in this category include bipolar disorders (I or II), cyclothymic disorder, major depressive disorder, persistent depressive disorder (dysthymia), and bipolar or depressive disorder due to another medical condition.

Petitioner presented credible evidence that she experiences the following symptoms associated with depressive disorder: depressed mood; appetite disturbance with change in weight; sleep disturbance; difficulty concentrating or thinking; thoughts of death or suicide. Therefore, she meets the requisite five symptoms necessary to find she has a depressive disorder. She also shows a marked limitation of two or more areas of mental functioning: interacting with others; concentrating, persisting, or maintaining pace; adapting or managing herself. Accordingly, Petitioner cannot be found disabled, or not disabled, at Step 3; therefore, Petitioner's eligibility is considered under Step 4. 20 CFR 416.905(a).

Before Step 4, the Administrative Law Judge must determine Petitioner's residual functional capacity to perform the requirements of her past relevant work. Petitioner's past relevant work was as a barista, customer service agent, stripper, and baker. Working as in those jobs, as described by Petitioner at hearing, would be considered light and medium work.

After review of the entire record, including Petitioner's testimony, this Administrative Law Judge finds that Petitioner is not able to maintain the physical and mental demands necessary to perform medium and light work as defined by 20 CFR 416.967(a). The record shows that Petitioner can no longer work as a barista, customer service agent, stripper, or baker. Therefore, this Administrative Law Judge finds sufficient evidence in this record that demonstrates Petitioner is unable to perform her past relevant work. Because the record evidence shows that Petitioner is unable to do any past relevant work, the analysis proceeds to the fifth and final step.

In Step 5, an assessment of Petitioner's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Petitioner to the Department to present proof that the Petitioner has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

With regard to Step 5, the undersigned finds that based upon the above Findings of Facts, Petitioner does not possess the requisite emotional stability to perform any type of employment, even sedentary in nature. The Department has not provided sufficient documentation in the record to show that Petitioner has the residual functional capacity for substantial gainful employment.

This Administrative Law Judge finds that Petitioner has satisfied the burden of proof to show by competent, material, and substantial evidence that she has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Petitioner's impairments render her unable to engage in a full range of sedentary work activities on a regular and continuing basis. Petitioner's testimony regarding her limitations and inability to concentrate, follow instructions, work with people, and deal with changes in a normal work setting is credible and supported by the objective medical evidence. Petitioner's assertion that her impairments are severe enough to reach the criteria and definition of disability is also credible. This Administrative Law Judge finds that the objective medical evidence on the record shows that Petitioner lacks the residual functional capacity to perform her past relevant work. Plus, the evidence of record shows that Petitioner cannot perform even sedentary, non-exertional work with her current mental/emotional impairments. Therefore, Petitioner meets the definition of disabled for purposes of the MA program.

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

With regard to Petitioner's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA

program. In order to receive SDA, “a person must be disabled, caring for a disabled person or age 65 or older.” BEM, 261 (4/1/17), p 1.

A person is disabled for SDA purposes if he or she: (1) receives other specified disability-related benefits or services²; or (2) resides in a qualified Special Living Arrangement facility; or (3) is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or (4) is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS). BEM 261, pp 1-2.

As indicated above, Petitioner meets the definition of disabled under the MA program and the evidence of record shows that Petitioner is unable to work for a period exceeding 90 (ninety) days. Petitioner is disabled for purposes of the SDA program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not appropriately established on the record that it acted in compliance with Department policy when it denied Petitioner’s application for SDA.

Accordingly, the Department’s decision is **REVERSED**, and it is ORDERED that:

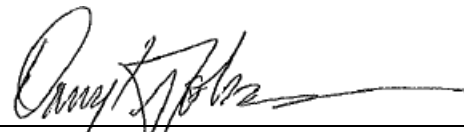
1. The Department shall process Petitioner’s October 18, 2016, application for SDA, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The Department shall initiate a review of Petitioner’s medical condition for improvement in 1 year from the date the Hearing Decision was issued, unless her pending Social Security Administration disability application is approved by that time.

²Retirement, Survivors and Disability Insurance (RSDI) due to disability/blindness, Supplemental Security Income (SSI) due to disability/blindness, Medicaid as blind/disabled based on a disability examiner or MRT determination or hearing decision, or Michigan Rehabilitation Services.

3. The Department shall obtain updated medical evidence from Petitioner's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.
4. The Department shall supplement for lost benefits (if any) that Petitioner was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.

IT IS SO ORDERED.

DJ/md



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]