



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 30, 2017

MAHS Docket No.: [REDACTED]

17-009163

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], 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. 2-8).
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 2, pp. 44-45)

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 43-year-old male.
8. Petitioner's highest education year completed was the 10th grade.
9. Petitioner has a history of unskilled employment.
10. Petitioner has restrictions limiting him to the performance of a full range 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 an 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 2, pp. 6-9) 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 2017 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 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th 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 (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).

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.

Various medical documents from 2011 and earlier (Exhibit 1, pp. 261-390). Treatment for knee and neck pain was noted. A mental health assessment indicated Petitioner's GAF was 48, in part, due to mood instability and social difficulties.

Various medical documents from 2016 (Exhibit 1, pp. 182-258) were presented. Treatment for chronic neck and bilateral knee pain was noted.

Physician assistant encounter notes (Exhibit 1, pp 182-189) dated [REDACTED], were presented. Petitioner complained of chronic neck pain and spasms. A history of cervical spine fusion was noted. Neck x-rays were planned.

Physician assistant encounter notes (Exhibit 1, pp. 192-196) dated [REDACTED] were presented. Petitioner reported ongoing neck crunching and popping. Petitioner also reported burning sensations in his arms. Full range of motion and a normal gait was noted. Neuropathic pain in arms and legs was assessed. A brain MRI was planned.

Physician assistant encounter notes (Exhibit 1, pp. 197-200) dated [REDACTED] were presented. Petitioner reported ongoing neck pain and skin sensitivity. A stiff gait was observed. An assessment of arm neuropathy with unclear etiology was noted. Mobic was continued for joint pain.

Physician encounter notes (Exhibit 1, pp. 203-206) dated [REDACTED], were presented. Petitioner reported ongoing neck bilateral knee pain. A Grade 3 right-knee ACL deficiency and instability was assessed. A referral to sports medicine was noted.

Physician assistant encounter notes (Exhibit 1, pp 75-76) dated [REDACTED], were presented. Chronic knee and leg pain, ongoing for 20 years was reported. Assessments included limited range of knee motion and abnormal gait. Referrals to orthopedics, physical therapy, and occupational therapy were noted. Lorazepam and Cymbalta were prescribed. Petitioner also requested Ativan to help with anxiety. A “rather bizarre” tangentiality was noted in Petitioner’s conversation.

Physician office visit notes (Exhibit 1, pp. 83-85) dated [REDACTED], were presented. Petitioner reported ongoing knee pain. Muscle strength of legs were 5/5. It was noted previous ACL surgery on Petitioner’s right knee was a failure. Euflexxa injections were planned.

A right knee x-ray report (Exhibit 1, pp. 80-81) dated [REDACTED], was presented. Arthritic changes including moderate-to-severe narrowing of medial tibiofemoral compartment was noted.

A left knee x-ray report (Exhibit 1, pp. 81-82) dated [REDACTED], was presented. Mild narrowing of posterior patellofemoral compartment laterally with osteophytes was noted.

Physician office visit notes (Exhibit 1, pp. 87-88) dated [REDACTED], were presented. Petitioner reported lower back pain. Petitioner’s gait was observed to be normal when Petitioner walked in the parking lot after the appointment. Warm back packs were recommended.

Physician office visit notes (Exhibit 1, pp. 91-99) from [REDACTED], were presented. Petitioner received a series of 3 Euflexxa injections in both knees.

Physician office visit notes (Exhibit 1, pp. 100-101, 116-118) dated [REDACTED], were presented. Petitioner complained of body-wide dysesthesia, particularly in his scalp. All skin contact was reported to be painful. Observations of Petitioner included intense mood, intact memory, and distracted conversation. A brain MRI was noted to be “unrevealing.” Gabapentin was prescribed. Duloxetine and Lorazepam were continued.

Physician office visit notes (Exhibit 1, pp. 103-105) dated [REDACTED], were presented. Petitioner reported feeling “great” after knee injections, though ongoing right knee pain was reported. Near bone-on-bone contact was noted in right knee. A right knee replacement was recommended.

Physician office visit notes (Exhibit 1, pp. 106-107) dated [REDACTED] were presented. Petitioner complained of right knee pain after a recent slip-and-fall.

Observations of Petitioner included use of knee brace, limping gait, and unable to straighten right knee. An acute strain was assessed. Pain medication was prescribed.

Physician office visit notes (Exhibit 1, pp. 109-111) dated [REDACTED], were presented. Petitioner reported he recently was on the ground for 30 minutes after his right knee gave out. Petitioner reported he wanted to have replacement surgery but was holding-off due to financial difficulties. Exam assessments included a full range of knee motion. Pain to palpation was noted. Assessments included right knee posttraumatic osteoarthritis, torn ACL, and torn PCL.

Petitioner testified that in approximately 2005, he fell approximately 18 feet from a rooftop. Petitioner testified the fall caused him to “blow both his knees-out.” Petitioner testified he underwent ACL surgeries in both of his knees, but the surgery on his right knee was a failure.

Petitioner testified it took him several tries before he could find a surgeon who would operate on his knee. Petitioner testified he is in need of knee-replacement surgery (i.e. arthroplasty) for both of his knees. Petitioner testified he is postponing surgery until he is more financially stable.

Petitioner testified his first series of knee injections offered relief for only 3 months. Petitioner testified he recently attended physical therapy and takes Tylenol or Aleve to help reduce pain.

Presented medical records generally verified a medical treatment history consistent with restrictions to ambulation, standing, and lifting/carrying due to bilateral knee dysfunction. 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).

Petitioner’s primary restriction was based on knee dysfunction. Disability by joint degeneration is established by the following SSA listing:

1.02 Major dysfunction of a joint(s) (due to any cause): Characterized by gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s),

and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With:

A. Involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively, as defined in 1.00B2b;

OR

B. Involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively, as defined in 1.00B2c.

The ability to ambulate effectively is the crux of the joint deformity listing. Listing 1.00B2b defines what SSA requires for effective ambulation:

To ambulate effectively, individuals must be capable of sustaining a reasonable walking pace over a sufficient distance to be able to carry out activities of daily living. They must have the ability to travel without companion assistance to and from a place of employment or school. Therefore, examples of ineffective ambulation include, but are not limited to, the inability to walk without the use of a walker, two crutches or two canes, the inability to walk a block at a reasonable pace on rough or uneven surfaces, the inability to use standard public transportation, the inability to carry out routine ambulatory activities, such as shopping and banking, and the inability to climb a few steps at a reasonable pace with the use of a single hand rail.

A diagnosis of grade 3 ACL deficiency was verified. The deficiency is understood to be the most severe grade of deficiency. The diagnosis can be indicative of ineffective ambulation. Documented plans for arthroplasty surgery were also indicative of ineffective ambulation.

Presented records tended to verify Petitioner had a period of knee stability in February 2017 and March 2017. Documented statements of a normal gait and improved pain following knee injections were not consistent with finding an inability to effectively ambulate.

A limping gait in April 2016 was documented. More consideration would have been given to the evidence had the condition not been attributed to an acute (i.e. temporary) strain.

Consideration was given to finding ineffective ambulation based on Petitioner's reported fall in May 2017. As part of the last presented medical record, it is difficult to discern if the incident is representative of ongoing difficulties. Most notably, a full range of knee motion was noted; a full range of knee motion is not indicative of ineffective ambulation.

Consideration was given to the possibility that Petitioner's gait would have been severely hampered due to problems with both knees. Petitioner's left knee radiology was indicative of *mild* narrowing due to osteophytes. The assessment is undoubtedly challenging, however, not to the extent that ineffective ambulation can be inferred.

It is found Petitioner does not meet any SSA listings. Accordingly, 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 reported work history from the last 15 years on a Medical-Social Questionnaire (see Exhibit 1, p. 15). Petitioner's only reported employment was as a roofer from 2006 and earlier.

Petitioner testified he performs various odd jobs to help pay for gas and electricity. As an example, he stated that he can ride a mower to cut his mother's grass. Petitioner's testimony was not suggestive of any past relevant employment amounting to SGA earnings.

Petitioner testified he is unable to perform the climbing, lifting/carrying, and standing required of his former employment. Given the generally highly exertional nature of employment as a roofer, Petitioner's testimony was credible and consistent with presented evidence. It is found that Petitioner is unable to perform past and relevant 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.*

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 he walks with an unprescribed walking stick. Petitioner testified that he has not asked for a cane because his walking stick is reliable. Petitioner testified that he wears braces on both his knees.

Petitioner testified he has good days and bad days. Petitioner testified damp and cold days are harder on his knees compared to other days.

Petitioner testified he can walk between 100 yards and a ¼ mile. Petitioner testified he can stand for 10 minutes before his knees give-out. Petitioner testified his sitting is limited to 30-45 minutes before having to stand. Petitioner testified his lifting/carrying is limited to 10 pounds. Petitioner testified he can climb/descend less than 14 stairs.

Petitioner denied any problems in dressing or bathing. Petitioner testified he performs housework when he is up for it. Petitioner testified his mother washes his clothes, in part, because he does not have a washer/dryer, and in part because he is unable to walk the stairs into his mom's basement. Petitioner testified he relies on a scooter for longer shopping trips. Petitioner testified he is capable of driving.

Petitioner's testimony was debatably indicative of not being able to perform sedentary employment. The analysis will proceed to continue to determine if Petitioner is capable of performing sedentary employment.

Petitioner testimony specifically attributed sitting restrictions due to anxiety, not knee dysfunction. Petitioner testified he is used to being an active person and that sitting makes him anxious. The absence of treatment for anxiety and/or documented sitting restrictions precludes an inference that Petitioner is incapable of performing the sitting required of sedentary employment.

A diagnosis of neuropathy was verified. Presumably, gabapentin was prescribed in response. A degree of limited arm movement and/or strength was noted. The evidence is not sufficient to infer restrictions to Petitioner's performance of sedentary employment.

Petitioner testified his scalp and skin have been hurting for several years. Petitioner testified it feels like a sunburn. Petitioner testified the cause is overactive nerves. Petitioner testified Neurontin helps to curb the sensation. A complaint of sensitive skin sensation was documented, but not diagnosed. The evidence was not sufficient to infer restrictions that would preclude Petitioner's performance of sedentary employment.

A Physical Residual Functional Capacity Assessment (Exhibit 1, pp. 64-70) dated [REDACTED], was presented. The assessment was signed by a consultant physician as part of Petitioner's SSA claim of disability. Stated restrictions included occasional lifting of 20 pounds, frequent ability to lift/carry 10 pounds, standing or sitting about 6 hours in an 8 hour workday, and unlimited pushing/pulling. Petitioner was restricted to only occasional kneeling, crawling, crouching, and climbing due to back pain. Petitioner was deemed

capable of performing a full range of light and sedentary employment. Radiology from January 2017 was cited as support for the assessments.

Given Petitioner's discussions of knee-replacement surgery with a physician and verified knee dysfunction, an assessment that Petitioner is capable of performing a full range of light employment appears to be an overstatement of Petitioner's abilities. Given Petitioner's verified dysfunction, full range of motion at his last verified doctor visit, and lack of documented verified need for a cane, Petitioner is found capable of performing the standing, lifting, and ambulation requirements for sedentary employment.

During the hearing, Petitioner was asked about his potential for performing sit-down employment (specifically telemarketing). Petitioner responded that he has poor social skills and that he is computer illiterate. Presented evidence was insufficient to infer impairments related to social skills and/or learning ability.

Petitioner testimony also implied that he lacks the work experience to perform sedentary employment. Petitioner's testimony is not relevant to the analysis other than how his experience fits into medical-vocational guidelines.

Petitioner also testified that his area of residence offers insufficient sedentary employment opportunities. Again, Petitioner's testimony is not relevant to the analysis unless some erosion of a full range of sedentary employment is established; none was established. It is found that Petitioner is capable of a full range of sedentary employment.

Based on Petitioner's exertional work level (sedentary), age (younger individual aged under 45), education (less than high school but literate and capable of communicating in English), employment history (unskilled), Medical-Vocational Rule 201.24 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

A handwritten signature in cursive script, appearing to read "Christian Gardocki", is positioned above a horizontal line.

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]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]