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GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: September 15, 2017  
MAHS Docket No.: 17-008568  
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 August 7, 2017, 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. 9-15).
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, pp. 2-3).

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 30 days to allow Petitioner to submit pain clinic records from [REDACTED] primary care physician records from [REDACTED] and back specialist records concerning a back brace. The record was extended seven additional days to allow MDHHS to submit any written objections. An Interim Order Extending the Record was subsequently mailed to both parties.
9. On [REDACTED], Petitioner submitted 34 pages of documents; of the submitted documents, 12 pages (Exhibit A, pp. 4-15) were within the scope of the documents listed in the order extending the record.
10. MDHHS did not object to the admission of presented documents.
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 [REDACTED]-year-old male.
13. Petitioner's highest education year completed was the [REDACTED] grade (via general equivalency degree).
14. Petitioner has a history of semi-skilled employment, with no known transferrable job skills.
15. Petitioner has various restrictions which allow the performance of sedentary employment.

### **CONCLUSIONS OF LAW**

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

Petitioner requested a hearing to dispute the denial of an SDA application. Petitioner claimed an inability to work for [REDACTED] days due to mental and/or physical disabilities. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-7) 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 [REDACTED] 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.

Hospital emergency room documents (Exhibit 1, pp. 172-184) dated [REDACTED], were presented. It was noted that Petitioner presented with complaints of left leg pain, ongoing for two weeks. Cardiac, circulatory, and neurological testing was negative. A generic discharge diagnosis of left leg pain was noted. Pain medication was prescribed.

Hospital emergency room documents (Exhibit 1, pp. 185-199) dated [REDACTED], were presented. It was noted that Petitioner complained of ongoing leg pain, unresolved by pain medication. Left leg radiology was negative. Naproxen was prescribed.

Hospital emergency room documents (Exhibit 1, pp. 200-207) dated [REDACTED], were presented. Petitioner complained of flu-like symptoms, difficulty breathing, and left-sided pain. Petitioner reported feeling better after receiving IV fluids.

Various hospital encounter notes (Exhibit 1, pp. 212-225) from [REDACTED] were presented. Petitioner reported lumbar and right shoulder pain. Various treatments included steroids and pain medication.

Hospital emergency room documents (Exhibit 1, pp. 237-245) dated [REDACTED], were presented. Burning back and abdominal pain, ongoing for three days was noted. A kidney stone was suspected as the cause of abdominal pain. Petitioner felt better after taking Toradol.

Hospital emergency room documents (Exhibit 1, pp. 234-236) dated [REDACTED], were presented. Petitioner complained of right arm pain, ongoing for a year. Non-opiate pain medication was provided. Follow-up with an orthopedist was planned.

Physician office visit notes (Exhibit 1, pp. 150-159) from [REDACTED] were presented. Petitioner complained of right shoulder pain from an injury occurring in [REDACTED]. Various medications were continued.

A right shoulder MRI report (Exhibit 1, pp. 166-167) dated [REDACTED], was presented. An impression of a "tiny tear" in superior labrum, degenerative changes, and bursitis was noted.

A lumbar spine MRI report (Exhibit 1, pp. 163-164) dated [REDACTED], was presented. Mild canal stenosis was noted at L4-L5 and L5-S1. Mild impingement on L4 nerve roots was noted.

Physician office visit notes (Exhibit 1, pp. 146-149) dated [REDACTED], were presented. A pain management physician referral was given for lumbar pain treatment. Petitioner received a referral to an orthopedist for complaint of shoulder pain.

Physician office visit notes (Exhibit 1, pp. 142-145) dated [REDACTED], were presented. Albuterol was prescribed for a cough. Lumbar MRI results were discussed.

Physician office visit notes (Exhibit 1, pp. 138-141) dated [REDACTED], were presented. Norco and other medications were refilled for lumbar and right shoulder pain.

Physician office visit notes (Exhibit 1, pp. 134-137) dated [REDACTED], were presented. Petitioner reported ongoing lumbar pain radiating to his legs. Lumbar tenderness was noted. Neurontin was prescribed. Physical therapy (PT) was recommended. A pain injection was ordered for right shoulder pain.

Physician office visit notes (Exhibit 1, pp. 131-133) dated [REDACTED], were presented. Headaches, lumbar pain, and elbow pain were reported. Various medications were continued.

Physician office visit notes (Exhibit 1, pp. 127-130) dated [REDACTED], were presented. Petitioner reported right elbow pain. PT was planned. It was noted Petitioner would see a specialist for ongoing lumbar pain. An orthopedist was recommended for right arm pain. Headaches were also reported.

An internal medicine examination report (Exhibit 1, pp. 110-117) dated [REDACTED] was presented. The report was noted as completed by a consultative physician as part of the disability determination process. Petitioner reported back pain (6/10 without treatment, 5/10 with treatment). Petitioner reported taking hydrocodone six times per day with little reduction in pain. A normal gait was noted. Mild reduction in right shoulder range of motion was noted. No neurological deficits were noted. It was noted that Petitioner was able to perform all 23 listed work-related activities which included sitting, standing, lifting, carrying, stooping, bending, and reaching, though squatting was noted as limited. Reduced ranges of motion were noted in Petitioner's lumbar flexion (70°- normal 90°) and bilateral side flexion (20°- normal 25°). Assessments included mild degenerative arthritis and mild right shoulder pain.

Pain management (Exhibit A, pp. 4-5) dated [REDACTED], were presented. It was noted Petitioner underwent an epidural lumbar injection of Kenalog, lidocaine, and PFNS.

Pain management (Exhibit A, pp. 6-7) dated [REDACTED], were presented. It was noted Petitioner underwent an epidural lumbar injection of Kenalog, lidocaine, and PFNS.

Physician office visit notes (Exhibit A, pp. 12-16) dated [REDACTED], were presented. Ongoing back pain (8/10) was reported). Pain was reportedly aggravated by ADLs and sitting. Pain relief from movement and meds was noted. Examination assessments included cervical spine, lumbar spine, and right shoulder tenderness. Norco, Neurontin, meloxicam, and Ultram were refilled.

Physician office visit notes (Exhibit A, pp. 8-11) dated [REDACTED], were presented. Follow-up for back pain was noted. A diagnosis of mild spinal canal stenosis was reiterated. Various medications were refilled.

Petitioner's primary cause of impairments was related to back pain. Petitioner testified he tried physical therapy but quit because it hurt too much. Petitioner testified he has had more success with epidural injections, of which he has had four. Petitioner testified he takes pain medication but is worried about doing so.

Petitioner also alleged impairments due to right-shoulder pain. Petitioner testified he is unable to lift his arm over his head.

Presented medical records generally verified a medical treatment history consistent with exertional restrictions due to lumbar and right-shoulder 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).

A listing for joint dysfunction (Listing 1.02) was considered based on Petitioner's complaints of right shoulder pain. The listing was rejected due to a failure to establish that Petitioner is unable to perform fine and gross movements with upper extremities.

A listing for spinal disorders (Listing 1.04) was considered based on Petitioner's lumbar complaints. This listing was rejected due to a failure to establish that Petitioner is unable to ambulate effectively or that nerve root compression causes sensory or reflex loss.

It is found Petitioner does not meet any Social Security Administration (SSA) listings. Accordingly, the analysis may proceed to the fourth step.

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).

For purposes of this decision, a full-fledged RFC assessment will not be undertaken. Instead an RFC assessment will be performed, as necessary, in the final disability analysis steps.

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 testified he worked most recently as a carpenter. Petitioner testified his employment involved the building of homes, including installation of ductwork. Petitioner testified this employment required extended periods of standing and/or walking and lifting/carrying of up to 80 pounds.

Petitioner testified he has past relevant employment with a fast-food restaurant. Petitioner testified he was promoted from a kitchen worker to a shift leader. Petitioner testified all of his restaurant duties involved extended periods of standing and walking.

Petitioner testified he worked as a part-time banquet server. The employment was not factored because it is uncertain if the employment amounted to SGA earnings.

Petitioner testimony implied that he is unable to perform the walking and/or standing required of his past employment. For purposes of this decision, Petitioner's testimony will be accepted. It is found that Petitioner is unable to perform past and relevant employment; accordingly, the analysis may proceed to the final step.

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 sometimes utilizes a cane. Petitioner testified he uses a cane for extended trips (3-4 hours) from his home.

Petitioner testified he can only walk 100 feet before needing to rest for a minute. Petitioner testified he could stand for 30 minutes while using his cane. Petitioner testified he can only sit for 15 minutes before needing to stand. Petitioner testified his physician restricted him from lifting/carrying more than 3 pounds. Petitioner testified his right grip is weak and that he often drops items; Petitioner suspects nerve damage as the cause. Petitioner testified he is limited to climbing 10 stairs.

Petitioner testified he can shower, but with difficulty. Petitioner testified he can independently dress, though socks and shoes are difficult due to back pain. Petitioner testified he can do laundry, though he relies on a cart for transporting his clothes. Petitioner testified he can shop, but he relies on other persons to carry heavier (specifics were not provided) items. Petitioner testified he can drive.

Petitioner's statements concerning use of a cane, standing, ambulation, sitting, and ADLs was generally consistent with an inability to perform even sedentary employment. The analysis will proceed to consider whether Petitioner's statements were supported by presented medical records.

Presented records did not verify any need or prescription for a cane. The absence of the documented need precludes consideration of Petitioner's claimed reliance on a cane.

The record was extended in part, to specifically verify Petitioner's need for a back brace. Though Petitioner's submission verified a history of epidural injections, a need for a back brace was not apparent.

Petitioner verified right-shoulder bursitis. Petitioner suggested related impairments of overhead usage with his right arm and possible loss of grip strength. A loss of grip strength affecting an ability to perform light or sedentary employment was not apparent in presented records. For purposes of this decision, Petitioner's testimony that he is unable to perform right-handed overhead lifting will be accepted.

Presented radiology verified lumbar spine degeneration and mild stenosis at L5-L6. Generally, mild stenosis is indicative of back pain requiring treatment. Generally, mild stenosis could reasonably preclude performance of frequent lifting for medium employment. Generally, the diagnosis is not indicative of impairments affecting an ability to perform sedentary employment. This conclusion is consistent with consultative examiner assessments from [REDACTED].

The consultative examiner noted restrictions to heavy lifting, extended lifting, long walking, and long standing periods. The restrictions were consistent with presented medical records. The restrictions would not limit Petitioner's ability to perform sedentary employment.

During the hearing, Petitioner was asked specifically about his ability to perform sit-down employment. Petitioner conceded he could perform sit-down employment if he has a sitting/standing option. Petitioner expressed concern over his computer literacy; Petitioner's computer literacy is not a factor in the disability analysis other than consideration of transferrable job skills. It is found Petitioner is capable, at minimum, of performing sedentary employment allowing for a sitting/standing option with no two-handed overhead reaching.


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

Based on Petitioner's exertional work level (sedentary), age (younger individual aged 18-44), education (high school), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 201.28 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/jaf

  
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**Christian Gardocki**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

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

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

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

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

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

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]