RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[redacted]

Date Mailed: September 25, 2017
MAHS Docket No.: 17-009721
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 September 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 April 24, 2017, Petitioner applied for SDA benefits.

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

3. On June 19, 2017, the Disability Determination Service determined that Petitioner was not a disabled individual (see Exhibit A, pp. 5-11).

4. On June 26, 2017, MDHHS denied Petitioner's application for SDA benefits.

5. On July 6, 2017, Petitioner requested a hearing disputing the denial of SDA benefits (see Exhibit A, pp. 2-3).

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 [redacted]-year-old male.

8. Petitioner has a history of unskilled employment, including employment as a truck driver.

9. Petitioner has cardiac and breathing restrictions which allow Petitioner to perform past employment as a truck driver.

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 A, pp. 1089-1090) dated June 26, 2017, 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 F2d 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.

It should be noted that a large packet of documents (Exhibit A, pp. 1-1092) were admitted. It was assumed that the documents represented 1,092 pages. After the hearing, it was discovered that pp. 342-403 were not included in the packet.

Hospital documents (Exhibit A, pp. 236-237) dated June 30, 2015, were presented. It was noted that Petitioner complained of chest pains (ongoing for 2-3 hours) and arm numbness.

Hospital documents (Exhibit A, pp. 161-164, 250-255, 271-277, 321-330) dated [redacted], were presented. Petitioner reported dizziness after arising from a lying position. Recurring dizziness with positional movement was reported. An EKG was normal. A carotid duplex report (Exhibit A, pp. 184-185) dated [redacted], noted "no significant stenosis." Chest radiology (see Exhibit A, pp. 186-187) noted no acute process. A head CT was negative (see Exhibit A, pp. 188-189) other than sinus disease. Normal cardiovascular and musculoskeletal examination findings were noted. Assessments included near syncope (suspected to be vasovagal-related); an ENT evaluation was recommended. Atypical chest pain, benign hypertension (HTN), and dyslipidemia, and diabetes mellitus (DM) were also noted.

Cardiologist office visit notes (Exhibit A, pp. 318-321) dated [redacted], were presented. Petitioner was assessed as "doing fairly well" though dizziness, worse with head movements, was reported. Diagnoses of atypical chest pain and benign positional vertigo were noted. Medications were adjusted.

Hospital documents (Exhibit A, pp. 198-199, 234-235, 243-250, 256-260, 298-317) from an admission dated [redacted], were presented. It was noted that Petitioner

presented with complaints of ongoing chest pain, exacerbated by a recent verbal altercation. Petitioner underwent a coronary angiography, right femoral artery angiography and left heart catheterization. A normal EKG was noted. A recent stress test was noted to be negative. Left main disease was suspected but assessed as "not functionally significant." Calcium-channel blocker was recommended. Petitioner was kept for observation without notable incident. A discharge date of [redacted], was noted. Assessments of HTN, dyslipidemia, DM, and benign positional vertigo were noted.

Heart center admission documents (Exhibit A, pp. 198-199, 232-233, 238-242, 265-271, 282-297) dated [redacted], were presented. Petitioner complained of chest pain, ongoing for a month. A history of mild/moderate CAD was noted. An ECG report (Exhibit A, pp. 210-211) noted a "borderline" result. An ejection fraction of 70% was noted following Myocardial Perfusion testing on [redacted]. An ECG report (Exhibit A, pp. 203-205) dated [redacted], noted normal sinus rhythm and a normal examination. Petitioner underwent a left coronary angiography. Diagnoses of non-obstructive CAD and coronary vasospastic disease were noted. Petitioner reported dizziness was slowly improving. Petitioner's medications were adjusted. Follow-up in four weeks was planned.

An ECG report (Exhibit A, pp. 201-202) dated [redacted], was presented. A normal rhythm was noted.

Myocardial perfusion imaging (Exhibit A, pp. 170-171) dated [redacted], was presented. Petitioner's ejection fraction was 70%, Ischemia was noted to be possible.

Cardiologist office visit notes (Exhibit A, p. 404) dated [redacted], were presented. An EKG was normal. It was noted Petitioner left before being seen by an attending physician.

Cardiologist office visit notes (Exhibit A, pp. 340-341) dated [redacted], were presented. Various exam assessments were generally normal, though faint wheezing was noted.

Cardiologist office visit documents (Exhibit A, pp. 414-421) dated [redacted], were presented. An ECG was noted to be normal. Chest x-rays demonstrated no acute cardiopulmonary process.

Cardiac rhythm testing results (Exhibit A, p. 332) dated [redacted], were presented. "No events" was noted.

Hospital documents (Exhibit A, pp. 422-431) dated [redacted], were presented. A complaint of abdominal pain, ongoing for a month, was noted. A history of Hepatitis C was noted. Pelvic CT imaging was negative. Petitioner was admitted for observation. A final diagnoses of acute exacerbation of chronic abdominal pain with uncertain etiology was noted.

Cardiologist office visit notes (Exhibit A, pp. 333-339) dated [redacted], were presented. Complaints of leg claudication, chest pain, dyspnea with less than 1 block of walking, and dizziness episodes (more than 10 per day) were noted. Lower extremity test results were noted to be “borderline,” Assessments included DM, artery disease, HTN, and COPD.

Hospital emergency room documents (Exhibit A, pp. 432-439) dated [redacted], were presented. It was noted that Petitioner presented with complaints of cough, ongoing for 3-4 days, chest discomfort, and dyspnea. A chest x-ray was performed. Treatments and assessments were not apparent.

Hospital emergency room documents (Exhibit A, pp. 440-445) dated [redacted] were presented. It was noted that Petitioner was taken after being found lying on the side of an interstate service drive with his legs on the road. Petitioner reported he drank 5-6 pints of vodka. Diagnoses of acute alcohol intoxication and possible mild exacerbation of COPD were noted.

Hospital emergency room documents (Exhibit A, pp. 446-465) dated [redacted] were presented. Petitioner reported right-sided and leg weakness after waking. Petitioner reported he later drank alcohol and fell. A normal gait was noted. Full muscle strength other than right-sided knee flexion was noted. A brain MRI was recommended. A normal EKG was noted. Discharge details noted a stroke was ruled-out and that Petitioner’s symptoms cleared.

Mental health physician office visit notes (Exhibit A, pp. 591-599) dated [redacted] were presented. Petitioner complained of ongoing anxiety and depression. It was noted Petitioner denied side effects from medications. Mental health assessments included normal affect, normal psychomotor activity, normal thought process, normal attention, adequate insight, and adequate judgment. An Axis I primary diagnosis of bipolar disorder (type I) was noted. Petitioner’s medications were continued.

Various mental health agency documents (Exhibit A, pp. 486-1085) from [redacted], were presented. Services provided included transportation, job search assistance, and job counseling.

Mental health physician office visit notes (Exhibit A, pp. 540-547) dated [redacted] were presented. Petitioner’s current medications included Baclofen, Chantix, Gabapentin, Lexapro, Metoprolol, and Nitroglycerin. Mental health assessments included normal affect, normal psychomotor activity, normal thought process, normal attention, adequate insight, and adequate judgment. An Axis I primary diagnosis of bipolar disorder (type I) was noted. Medications were continued.

An internal medicine examination report (Exhibit A, pp. 142-149) dated [redacted] was presented. The report was noted as completed by a consultative physician. Petitioner reported wearing a loop recorder to address ongoing chest pain. Petitioner reported lifelong hypertension; his blood pressure was 150/96. Petitioner reported good

results from medication to treat vertigo. Paresthesia in hands and feet from neuropathy was reported. COPD and a smoking habit were reported. Depression and mood swings were also reported. Tandem walk, toe walk, and heel walk were noted as slowly performed. Reduced ranges of motion were noted in Petitioner's lumbar flexion (80°- normal 90°) and bilateral hip forward flexion (40°- normal 100°). 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. Petitioner was deemed capable of performing simple grasping, pushing, and pulling.

The consultative examination including Spirometry testing (see Exhibit A, pp. 150-154). Petitioner's best post-bronchodilator FVC trial was 4.72 and his best FEV1 trial was 4.29. It was noted that Petitioner refused to blow longer than 4 seconds and that he did not use best efforts, in part, due to wheezing and dyspnea.

Petitioner testified he has grip weakness. Petitioner testified he was diagnosed with carpal-tunnel syndrome (CTS). Neither a diagnosis nor treatment for CTS was apparent. Based on presented evidence, impairments related to grip strength were not established.

Petitioner testified he is currently being treated for cirrhosis and prostate problems. Treatment for cirrhosis and/or prostate problems was not apparent.

Petitioner testified he had many hospital visits in 2016, most related to heart problems. Petitioner testified he was admitted four times over a one-month period around May 2016. Petitioner testified that he literally died while undergoing one of three heart catheterizations. Petitioner testified he still experiences left arm numbness and daily chest pain. Petitioner testified he sees his cardiologist every 2-3 months for ongoing treatment.

Petitioner alleged limited abilities related to walking, stair climbing, standing, sitting, and lifting/carrying. Petitioner testimony implied the restrictions were related to cardiac restrictions, COPD, neuropathy, and back pain. Petitioner also testified he regularly sees a psychiatrist, counselor and case manager for depression and anxiety.

Presented medical records generally verified a medical treatment history consistent with exertional restrictions due to heart disease and COPD. Presented records also generally verified degrees of concentration and social interaction restrictions due to bipolar disorder, depression, and/or anxiety. 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 chronic pulmonary insufficiency (Listing 3.02) was considered based on a diagnosis of COPD. Petitioner testified he is [redacted] years old and [redacted] inches tall. Based on Petitioner's height and age (and gender), a FEV1 1.75 or less or a FVC of 2.20 or less is required to meet listing requirements. Petitioner did not meet listing results.

Cardiac-related listings (Listing 4.00) were considered based on Petitioner's cardiac treatment history. Petitioner failed to meet any cardiac listings.

A listing for affective disorder (Listing 12.04) was considered based on a diagnosis of bipolar disorder. A listing for anxiety-related disorders (Listing 12.06) was considered based on treatment for anxiety. The listings were rejected due to a failure to establish an extreme restriction or multiple marked restrictions to understanding or applying information, interacting with others, concentration or persistence, and/or adaptation. It was also not established that Petitioner had minimal capacity to adapt to changes in environment or to demands that are not already part of daily life.

It is found Petitioner does not meet any SSA listings. 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).

For purposes of this decision, a fully developed 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 has past employment as a general laborer. Petitioner testified that he is unable to perform the employment due to the stress that the physical labor would place on his heart.

Petitioner testified he performed employment as a security guard. Petitioner testified that he would be unable to perform the employment because he is physically unable to deal with the regular confrontations. Petitioner testified that he typically subdued persons 2-3 times per week while working in an office building.

Petitioner's testimony that he is unable to perform past employment as a laborer or security guard was consistent with his treatment for COPD and heart disease. Petitioner also reported a third full-time job from the past 15 years.

Petitioner testified he most recently worked as a truck driver. Petitioner testified that a physician told him in 2015 that truck driving employment was too stressful for him. Petitioner testified that the job was spent mostly sitting. Petitioner testified that he was not required to perform any lifting. Petitioner testified that shifting gears was the most physical part of the job. Petitioner testified that he was unsure if he could withstand the stress of dealing with traffic and rude drivers.

During the hearing, Petitioner was asked if he had difficulties performing bathing/showering, dressing/grooming, laundry, shopping, or driving. Petitioner responded he did not have difficulties performing any activities. Petitioner responded similarly when asked about performing housework, though he noted that his living space is small. Petitioner's testimony of ADL performance is not indicative of challenges to performing past employment as a truck driver.

Petitioner testified that walking 14 steps causes him to breathe "really heavy"; Petitioner elaborated that it feels like his heart is coming out of his chest. Petitioner testified he was prescribed a walker but does not use it because he does not need it. Petitioner testified he is limited to three blocks of walking before needing to rest his heart. Petitioner testified his legs would give-out after 30 minutes of standing. Petitioner testified he is capable of sitting for 60-90 minutes. Petitioner testified he is restricted to lifting/carrying of 15 pounds. Petitioner's statements of restrictions appear consistent with an ability to perform his past employment as a truck driver.

Consideration was given to finding that vertigo symptoms would preclude any employment involving driving. Petitioner's dizziness complaints appeared to be related to a BPPV diagnosis. Generally, BPPV is a treatable condition that does not cause driving restrictions when treated properly.

The most recently documented vertigo symptom not related to alcohol abuse was dated [redacted]. The absence of documented vertigo symptoms over the following eight months (until Petitioner's SDA application date) is supportive in rejecting dizziness as a barrier to Petitioner's driving ability.

BPPV involves vestibular problems which may be treated by an ENT specialist. An ENT recommendation was documented, however ENT treatment was not. The absence of ENT treatment is indicative that Petitioner did not consider his symptoms serious enough to merit treatment. This consideration supports rejecting vertigo as an obstacle to performance of past employment.

Petitioner did not present a written statement from a physician concerning driving restrictions. The absence of restriction tends to support finding that Petitioner can perform driving employment.

Petitioner's most recent employment provides insight into Petitioner's abilities. As it happens, recent mental health treatment documents tended to verify that Petitioner's most recent employment was not as a truck driver.

An Employment Relationship Rating Scale (Exhibit A, pp. 608-609) dated [redacted] was presented. The document was from a treating mental health agency staff member. It was noted Petitioner currently worked on a vehicle assembly line and that his employment was going well.

An Employment Relationship Rating Scale (Exhibit A, pp. 589-590) dated [redacted] was presented. Petitioner reported approaching his 30th day on an assembly line job. Petitioner reported he would start training for a different job for his employer because the vehicle he was assembling was getting discontinued.

An Employment Relationship Rating Scale (Exhibit A, pp. 554-55) dated [redacted] was presented. Petitioner reported a 2 week employment layoff. Petitioner reported he is scheduled to return to work, but will not due to having surgery on his feet. Employment searches were performed for Petitioner.

Mental health agency notes (Exhibit A, pp. 483-484) dated [redacted], were presented. Petitioner reported getting hired with a landscaping company, but needing medical clearance.

Mental health agency notes (Exhibit A, pp. 480-481) dated [redacted], were presented. Petitioner reported seeking employment. The agency assisted Petitioner with transportation. Petitioner was noted to appear in "good health."

Mental health agency notes (Exhibit A, pp. 482-483) dated [redacted], were presented. It was noted Petitioner was picked-up by the agency for the purpose of job search and work clothes.

Mental health agency notes (Exhibit A, p. 478) dated [redacted] were presented. Petitioner reported on-call employment for a landscaping company. Petitioner also reported reducing cigarette intake and that medications "help him out a lot."

Presented mental health treatment records tended to verify that Petitioner worked fairly recently in employment that likely required more exertion than his truck driving employment. This is supportive in finding that Petitioner could perform past employment as a truck driver.

Petitioner's employment, pursuit of employment, and treatment records was also indicative of only mild restrictions, at worst, to concentration, social interaction, and/or adaptability. None of the restrictions would preclude employment as a truck driver.

It is also notable that though Petitioner verified regular hospital treatments in 2016 for cardiac problems, there was little indication of ongoing symptoms. Recent ECGs noted normal results. Stress test results were not indicative of an inability to perform truck driving. Spirometry test results were also not indicative of impairments to truck driving.

Petitioner testified he could only sit about three hours over an eight-hour workday due to back pain. The testimony, if accepted, would prevent full-time employment as a truck driver.

Restricted ranges of lumbar motion were documented by a consultative examiner. Treatment for back pain was not otherwise apparent. Most notably, lumbar radiology was not presented. The general absence of treatment for back pain supports finding that Petitioner is not impaired from performing his past employment due to back pain.

Consideration was given to Petitioner's claim that he would have difficulties withstanding the stress of driving. Though a diagnosis for bipolar disorder was documents, very little verification of ongoing symptoms was noted. Mental health treatment assessments were consistently unremarkable. Petitioner had no known hospitalizations related to mental health. The fact that Petitioner's treating mental health agency assisted Petitioner in obtaining employment was highly indicative that Petitioner had few mental health restrictions. Presented evidence was not suggestive that Petitioner had non-exertional restrictions to performing employment as a truck driver.

It is found that Petitioner can perform past employment as a truck driver. Accordingly, Petitioner is not a disabled individual and it is found that MDHHS properly denied Petitioner's application for 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 April 24, 2017, based on a determination that Petitioner is not disabled. The actions taken by MDHHS are **AFFIRMED**.

CG/

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]