



RICK SNYDER
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: April 7, 2017
MAHS Docket No.: 17-001843
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 March 8, 2017, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

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 (see Exhibit 1, pp. 1-26).
2. Petitioner's only basis for SDA benefits was as a disabled individual.
3. [REDACTED], the Disability Determination Service determined that Petitioner was not a disabled individual (see Exhibit 1, pp. 220-226).
4. On [REDACTED], MDHHS denied Petitioner's application for SDA benefits and mailed a Notice of Case Action informing Petitioner of the denial.

5. On [REDACTED], Petitioner requested a hearing disputing the denial of SDA benefits.
6. As of the date of the administrative hearing, Petitioner was a 51-year-old male.
7. As of the date of the administrative hearing, Petitioner did not have employment earnings amounting to substantial gainful activity.
8. Petitioner's highest education year completed was the 12th grade (via general equivalency degree).
9. Petitioner has a history of unskilled employment, with no known transferrable job skills.
10. Due to lumbar and cervical spine dysfunction, Petitioner is unable to perform the ambulation and standing restrictions of many types of light employment.
11. MDHHS did not provide evidence of light employment available to Petitioner.

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's hearing request checked a dispute concerning Family Independence Program (FIP) benefits. Petitioner testified a dispute of cash assistance based on disability (i.e. SDA) was intended. MDHHS was not confused by Petitioner's error and prepared for an SDA dispute. MDHHS had no objections to proceeding with a hearing to resolve the SDA dispute and the hearing was conducted accordingly.

Petitioner requested a hearing to dispute the denial of a SDA application. Petitioner claimed an inability to work for 90 days due to mental and/or physical disabilities. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 235-238) 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 (July 2015), p. 4. 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 (January 2012), p. 1. A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
 - resides in a qualified Special Living Arrangement facility, or
 - is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
 - is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
- Id.*

Generally, state agencies such as MDHHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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 [90 days for SDA eligibility]. 20 CFR 416.905.

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.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2016 monthly income limit considered SGA for non-blind individuals is [REDACTED].

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.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the durational requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

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, Social Security Ruling 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).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Petitioner's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with a summary of presented medical documentation.

A cervical spine MRI report (Exhibit 1, pp. 71-72, 146-147) dated [REDACTED], was presented. An impression of lordotic straightening was noted which was suggestive of muscle spasm. Disc herniations at C4-C5 and C5-C6 were noted to produce mild-to-moderate stenosis.

A brain MRI report (Exhibit 1, pp. 69-70, 144-145) dated [REDACTED], was presented. The report was done in response to complaints of headache and neck pain. Various white lesions of uncertain etiology were noted.

A brain MRI report (Exhibit 1, pp. 139-140) dated [REDACTED], was presented. The report was done in response to complaints of headache and neck pain. Various unchanged white lesions were noted. Sinusitis was indicated.

A lumbar spine MRI report (Exhibit 1, pp. 62-63, 137-138) dated [REDACTED], was presented. An impression of no spondylolisthesis was noted. Mild-to-very mild degenerative changes were noted in the facets. Mild-to-very mild impingement of the neural foramen was noted at L4-L5; it was noted stenosis was "not quite" present.

A brain MRI report (Exhibit 1, pp. 66-67) dated [REDACTED], was presented. The report was done in response to complaints of headache. Various unchanged white lesions were noted. Bilateral sinusitis was noted.

A brain MRI report (Exhibit 1, pp. 64-65) dated [REDACTED], was presented. The report was done in response to complaints of extremity tingling and numbness.

A brain MRI report (Exhibit 1, pp. 64-65) dated [REDACTED], was presented. The report was done in response to complaints of extremity tingling and numbness. Diffusely diminished caliber of an artery segment was noted; other arteries were noted to be unremarkable.

Physician office visit notes (Exhibit 1, pp. 77-81, 152-157) dated [REDACTED], were presented. It was noted that Petitioner reported ongoing neck pain (7-8/10). Petitioner reported 30% pain reduction and improved activity from medications. Active medications included Norco, Lisinopril, trazadone, and others. Normal range of motion and normal muscle strength were noted. Reported restrictions included joint pain, difficulty with walking, and joint swelling. A plan of continuing medications was noted, though drug testing was planned and an assessment of opiate abuse was noted.

Physician office visit notes (Exhibit 1, pp. 86-89, 163-167) dated [REDACTED], were presented. It was noted that Petitioner reported ongoing neck pain (9/10) which radiated into legs. Physical examination assessments included full ranges of motion and normal muscle strength, though difficulty walking was reported by Petitioner. Assessments included chronic pain syndrome and chronic pain benefitting from opioid therapy. Various medications were continued.

Physician office visit notes (Exhibit 1, pp. 82-85, 158-162) dated [REDACTED], were presented. It was noted that Petitioner reported ongoing neck pain (3-6/10) which radiated into legs. Petitioner reported 40% pain reduction and improved activity from medications. Physical examination assessments included full ranges of motion and normal muscle strength, though difficulty walking was reported by Petitioner. It was

noted no better therapy other than medications existed. Random drug testing was planned.

Physician office visit notes (Exhibit 1, pp. 90-94, 168-172) dated [REDACTED], were presented. It was noted that Petitioner reported ongoing neck pain (9/10) which radiated into arms. Petitioner reported 70% pain reduction and improved activity from medications. Physical examination assessments included full ranges of motion and normal muscle strength, though difficulty walking was reported by Petitioner. Various medications were continued. A plan of a psychiatric evaluation was noted.

Various hepatitis treatment documents (Exhibit 1, pp. 37-38, 40-54, 104-106, 109-110, 112-123) dated July 19, 2016, and July 20, 2016, were presented. A corresponding letter from Petitioner's physician (see Exhibit 1, p. 45) stated Petitioner was diagnosed with hepatitis C and was "doing okay."

Fibro test results (Exhibit 1, p. 39, 111) dated [REDACTED], were presented. A FIBROSpect II Index score of 14 was noted. The score was noted to be consistent with METAVIR F0-F2.

A hepatic ultrasound report (Exhibit 1, p. 108) dated [REDACTED], was presented. No abnormalities were found.

A physician letter dated [REDACTED] (Exhibit 103) was presented. It was noted Petitioner began to receive medication to treat hepatitis. It was noted that Petitioner would be monitored every 3 months. It was noted Petitioner "will do fine" if he avoids alcohol.

Physician office visit notes (Exhibit 1, pp. 95-99, 173-177) dated [REDACTED], were presented. It was noted that Petitioner reported ongoing neck pain (10/10) which radiated into arms. Petitioner reported 30% pain reduction and improved activity from medications. Physical examination assessments included full ranges of motion and normal muscle strength, though difficulty walking was reported by Petitioner. Various medications were continued. Assessments included cervical spondylosis with severe C4-C5 and C5-C6 neuroforaminal narrowing, cervicogenic headache, and lumbar pain responsive to injections. Nerve blocks were ordered.

Presented records verified past brain radiology. Petitioner testified the radiology was performed out of concern from a Lyme disease diagnosis. The concern appears to be irrelevant to establishing ongoing severe impairments.

Petitioner testified he has ongoing back pain. Petitioner testified his primary treatment involves pain medication. Petitioner testified epidural injections relieve pain for only 1-2 days. Petitioner testified he has not attempted physical therapy because it is not covered by health insurance. Petitioner testified use of an inversion table increased his back pain.

Petitioner testified his physician recommended an unspecified cervical spinal surgery, but it is not covered by insurance. Such a recommendation was not apparent in presented records.

Presented records verified a diagnosis for hepatitis. Presented records verified only a small treatment period. The diagnosis, by itself, is concerning for Petitioner. A hepatitis diagnosis does not appear to cause any restrictions for Petitioner other than perhaps precluding the performance of some employment types. Petitioner testified he is in need of medication for hepatitis, but it is not covered by insurance; presented records did not appear to verify Petitioner's statement.

Petitioner's treatment history was consistent with degrees of exertional restrictions to ambulation, standing, and/or lifting/carrying due to spinal pain. The 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.

The third step of the sequential analysis requires determining whether the Petitioner's impairment, or combination of impairments, is listed in 20 CFR Part 404, Subpart P, appendix 1. 20 CFR 416.920 (a)(4)(iii). If a petitioner's impairments are listed and deemed to meet the durational requirement, then the petitioner is deemed disabled. If the impairment is unlisted or impairments do not meet listing level requirements, then the analysis proceeds to the next step.

A listing for spinal disorders (Listing 1.04) was considered based on Petitioner's cervical and lumbar spine complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root causing reduced strength or an inability to ambulate effectively.

Digestive listings (Listings 5.00) were considered based on Petitioner's diagnosis of hepatitis. Petitioner failed to meet any listings.

It is found that Petitioner failed to establish meeting (or equaling) an SSA listing. Accordingly, the analysis moves to the fourth step.

The fourth step in analyzing a disability claim requires an assessment of the Petitioner's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a petitioner can perform past relevant work. *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 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in

the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Petitioner testimony indicated Petitioner had 3 different jobs in the last 15 years in which his earnings amounted to SGA. Each job required fairly high degrees of exertion.

Petitioner testified he was a yard worker. Petitioner testified his primary job was cleaning up steel from a worksite. Petitioner testified the job required significant bending, which he can no longer perform.

Petitioner testified he worked at a restaurant. Petitioner testified his duties were split between being a busboy and a dishwasher. Petitioner testified he was expected to carry 10-15 pounds of dishes and up to 25 pounds of garbage. Petitioner testified he lost the job due to a hepatitis diagnosis. Petitioner testimony also implied he could not perform the regular lifting required of this employment.

Petitioner testified he previously worked as a pool table installer. Petitioner testified the employment required lifting 100-200 pound slates.

Petitioner's testimony that he is unable to perform past employment was credible and consistent with presented records. It is found Petitioner cannot perform past relevant employment; thus, the disability analysis may proceed to the final step.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983). To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967.

Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 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.

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though 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, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally 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 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary 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 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.*

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered non-exertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (e.g. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Given Petitioner's age, education and employment history a determination of disability is dependent on Petitioner's ability to perform light employment. Social Security Rule 83-

10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Petitioner testified he sometimes uses a walking-assistance device when his back is especially painful. Petitioner testified he is restricted to a half block of walking due to lumbar pain. Petitioner testified he is limited to standing for 45 minutes due to lumbar pain. Petitioner testified he can sit for 45-60 minutes before needing to stand. Petitioner testified he limits his lifting/carrying to 10-15 pounds.

Petitioner testified he can bathe, dress, and perform laundry without restriction. Petitioner testified he is unsure if he can do housework. Petitioner testified he limits shopping trips to 45 minutes because of standing and/or ambulation limits.

Petitioner's statements concerning standing and walking were generally consistent with an inability to perform light employment. Petitioner's statements will be evaluated with presented medical opinions and records.

SSR 96-2p states that if a treating source's medical opinion is well-supported and not inconsistent with the other substantial evidence in the case record, it must be given controlling weight (i.e. it must be adopted). Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*. No treating source opinions were apparent.

A Physical Residual Functional Capacity Assessment (Exhibit 1, pp. 227-234) 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 50 pounds, frequent ability to lift/carry 25 pounds, standing/walking about 6 hours in an 8 hour workday, sitting about 6 hours in an 8 hour workday, unlimited pushing/pulling, occasional kneeling, occasional crawling, and occasional crouching. Medical records cited to support assessments included various hepatitis treatment records, lumbar radiology from [REDACTED], and cervical spine radiology noting mild spinal stenosis.

The lifting/carrying, standing, pushing/pulling, and ambulation assessments from the consulting physician were indicative that Petitioner can perform the exertional requirements of light employment. The cited medical records for the assessments were reasonably supported. The assessment did not consider other factors.

Updated radiology since [REDACTED] would have provided insight into Petitioner's current spinal abilities. No such radiology was presented. Other evidence was presented so that inferences of Petitioner's current abilities can be made.

Cited spinal radiology from [REDACTED] was performed over 5 years before the consulting physician's assessments. Generally, spinal function deteriorates barring surgical

intervention; there was no evidence of surgical intervention. This consideration is indicative that Petitioner's spinal function has worsened to some degree over the previous 5 years.

Presented medical records regularly cited Petitioner's complaints of high levels of pain. The complaints also noted radiating pain to the legs, which is indicative of spondylosis. Spondylosis was cited by Petitioner's physician. Spondylosis is generally indicative of an inability to perform the standing, ambulation, and/or lifting/carrying required of many types of light employment.

Petitioner's physician specifically cited "severe" neural foraminal narrowing. The diagnosis is typically made with radiology; presumably the diagnosis was made based on observations of Petitioner (e.g. pain levels, range of motion...). Severe foraminal narrowing is generally indicative of stenosis and restrictions that would preclude the performance of standing and/or ambulation required of light employment.

Consideration was given to presented records regularly citing full ranges of motion and full strength. Generally, full ranges of motion are indicative of zero-to-minimal physical restrictions. Physicians have been known to sometimes fail to update office visit notes so that default settings inaccurately appear on the records. Other statements from Petitioner's physician were indicative that the full ranges of motion cited by Petitioner's physician inaccurately reflected Petitioner's condition.

The same notes citing full ranges of motion also cited Petitioner's difficulty with ambulation. Generally, difficulty walking from spinal disorder and a full range of spine motion will not coexist.

Presented records were indicative that Petitioner could perform employment requiring less than 6 hours of ambulation and/or standing with modest degrees of lifting/carrying. It is notable that Petitioner's employment opportunities would be further limited to non-restaurant jobs due to his hepatitis diagnosis. Non-restaurant jobs may be available to Petitioner, however, Petitioner's restrictions are severe enough that vocational evidence would need to be presented to verify the availability of employment within Petitioner's capabilities. MDHHS did not present evidence of the availability of such employment.

The burden of verifying available jobs within a client's capabilities rests with MDHHS. In lieu of such evidence, it must be found that Petitioner cannot perform light employment. It is found that Petitioner is restricted to performing sedentary employment.

Based on Petitioner's exertional work level (sedentary), age (approaching advanced age), education (high school- no direct entry into skilled work), and employment history (unskilled), Medical-Vocational Rule 201.12 is found to apply. This rule dictates a finding that Petitioner is disabled. Accordingly, it is found that MDHHS improperly 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 improperly denied Petitioner's application for SDA benefits. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's SDA benefit application dated [REDACTED]
- (2) evaluate Petitioner's eligibility subject to the finding that Petitioner is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (4) schedule a review of benefits in one year from the date of this administrative decision, if Petitioner is found eligible for future benefits.

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

CG/hw



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

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

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

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

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

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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

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