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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: April 27, 2017
MAHS Docket No.: 17-003347
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit programs?

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 submitted an application seeking cash assistance on the basis of a disability.
2. On or about [REDACTED] [REDACTED] [REDACTED], the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program. Exhibit D, pp. 1-8.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action denying the application effective [REDACTED], based on DDS/MRT's finding of no disability. Exhibit C, pp. 1-4.

4. On [REDACTED], the Department received Petitioner's timely written request for hearing. Exhibit A, pp. 2-3.
5. Petitioner alleged disabling impairments due to arthritis/osteoarthritis, kidney cancer, headaches, asthma, high blood pressure, osteoporosis, right knee replacement, shoulder replacement, depression, and anxiety.
6. On the date of the hearing, Petitioner was [REDACTED] years old with a date of birth of [REDACTED]; she was [REDACTED] in height and weighed [REDACTED] pounds.
7. Petitioner is a high school graduate, and she has an associate's degree in accounting.
8. At the time of application, Petitioner was not employed.
9. Petitioner has an employment history of work as a volunteer coordinator, administrative assistant, cashier, accountant, waitress, bartender, and loan officer.
10. Petitioner has a pending application for a disability claim with the Social Security Administration.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (July 2015), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Determining whether an individual is disabled for SSI purposes requires the application of a five step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has

the residual functional capacity to perform past relevant work; and (5) has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945. If an individual is found disabled, or not disabled, at any step in this process, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility 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, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

The first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Petitioner was not working during the period for which assistance might be available. Because Petitioner was not engaged in SGA, she is not ineligible under Step 1; and the analysis continues to Step 2.

Step Two

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and

aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the de minimis standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. SSR 85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.*; SSR 96-3p.

As a preliminary matter, Petitioner previously applied for SDA benefits on or about [REDACTED]; but she was denied by DDS/MRT on [REDACTED]. Exhibit K, pp. 1-7. As part of this hearing record, the Department included the medical evidence that was reviewed for the prior application, which is summarized as follows: (i) a consultative medical exam dated [REDACTED]; (ii) a consultative psychiatric/psychological report dated [REDACTED]; (iii) post-operative notes; (iv) progress notes dated on or about [REDACTED], to [REDACTED]; and (v) and other medical records. Exhibit M, pp. 1-236.

In the present case, though, Petitioner alleges disabling impairments due to arthritis/osteoarthritis, kidney cancer, headaches, asthma, high blood pressure, osteoporosis, right knee replacement, shoulder replacement, depression, and anxiety.

The medical evidence presented at the hearing was reviewed and is summarized below.

In progress notes dated from [REDACTED], to [REDACTED], the physician assistant diagnosed Petitioner with umbilical hernia; pulsatile neck mass; hypertension; asthma with exacerbation, unspecified asthma; urinary pain; hematuria; skin lesion; history of kidney stones; neck mass – right and enlarging and painful (doctor diagnosis); computerized tomography (CT) of urogram showing lesion arising from the upper pole

of the left kidney that is concerning for a solid renal mass; solid left renal mass; urinary frequency; pyelocaliectasis right; flank pain; reactive cervical lymphadenopathy; eustachian tube dysfunction (ETD), bilateral; renal cell cancer, left; right shoulder injury, initial encounter; overactive bladder, chronic constipation; mild intermittent asthma without complication; osteoporosis; patellofemoral stress syndrome of left knee; knee bursitis left; osteoporosis of left thumb; depression, unspecified depression type, anxiety and depression; dysuria; depression and anxiety diagnosed by licensed master social worker (LMSW); and right lower quadrant abdominal pain. Exhibit H, pp. 8-153.

In an exam of Petitioner's neck soft tissue dated [REDACTED], the doctor's impression was no masses are seen within the neck, mild diffuse enlargement of both lobes of the thyroid gland is visualized, severe changes of right C3-C4 facet joint arthrosis. Exhibit B, p. 4.

In an magnetic resonance imaging (MRI) of Petitioner's right shoulder dated [REDACTED] the doctor's impression was severe glenohumeral joint osteoarthritis, progressed compared to the prior study [REDACTED]); and postoperative changes consistent with rotator cuff repair, acromioplasty, and distal clavicle resection, no evidence of significant recurrent tear of the rotator cuff tendons. Exhibit B, p. 2.

An examination of Petitioner's left wrist dated [REDACTED], in which the doctor impression was osteoarthritis, basal joint of the thumb, and triscaphe joint of the left wrist. Exhibit B, p. 3.

A visit summary dated [REDACTED], in which the doctor diagnosed Petitioner with primary osteoarthritis of first carpometacarpal joint of left hand. Exhibit B, p. 1.

In progress notes dated from [REDACTED] to [REDACTED], Petitioner was diagnosed by the doctor with secondary osteoarthritis, right shoulder; and moderate osteoarthritis right shoulder. Exhibit G, pp. 18-38.

On [REDACTED], Petitioner had a right reverse total shoulder arthroplasty and long head biceps tenodesis procedures completed. On [REDACTED], Petitioner was discharged with a postoperative diagnosis of right shoulder secondary osteoarthritis with rotator cuff deficiency. Exhibit B, pp. 10-13.

On [REDACTED], Petitioner had a psychological consultative exam, in which the licensed psychologist diagnosed Petitioner with persistent depressive disorder, generalized anxiety disorder, and social anxiety disorder. He noted that her prognosis is judged to be good. Exhibit E, pp. 10-14.

In occupational therapy notes dated from [REDACTED], to [REDACTED], the occupational therapists had the following findings: Petitioner presents with pain, limited range of motion (ROM), strength of dominant should, this affects all function, rehabilitation potential is good, but problems lists as well; decreased ROM of right shoulder and pain, shoulder weakness; noted good gains in ROM, but still had

problems; minimal gains in active ROM, passive flexion intact, tolerated strengthening well today; and in her last assessment dated [REDACTED], it was noted that there was gains seen in ROM, strength and pain levels and rehabilitation potential is good. Exhibit 1, pp. 2-15.

An exam of Petitioner's left hand dated [REDACTED], in which the doctor impression was degenerative changes and osteopenia. Exhibit B, pp. 7-8.

On [REDACTED], Petitioner had a consultative exam, in which the doctor concluded that she has a history of renal cell carcinoma and to follow-up with her physician; history of chronic pain of the cervical spine, lumbar spine, both shoulders, knees and left hand with surgical intervention; and on the date of the visit, she was able to complete all orthopedic tasks asked of her without difficult, patient has limited ROM and decreased motor strength, she does not require the use of an assistive device and gait is normal, drip strength is decreased bilaterally with 3/5 strength reaming and no digital dexterity loss bilaterally, and cardiac and pulmonary examination is essentially normal . Exhibit G, pp. 67-70.

Petitioner presented a medical note showing that she will have left thumb ligament reconstruction tendon inter position surgery procedure on [REDACTED]. Exhibit 1, p. 1.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is sufficient to establish that Petitioner suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Petitioner has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 1.02 (major dysfunction of a joint(s) (due to any cause)), 1.04 (disorders of the spine), 1.06 (fracture of the femur, tibia, pelvis, or one of more of the tarsal bones), 1.07 (fracture of an upper extremity), 3.03 (asthma), 12.04 (depressive, bipolar and related disorders), 12.06 (anxiety and obsessive-compulsive disorders), and 13.21 (kidneys, adrenal glands, or ureters) were considered. The medical evidence presented does **not** show that Petitioner's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Therefore, Petitioner is not disabled under Step 3 and the analysis continues to Step 4.

Residual Functional Capacity

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Steps 4 and 5, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), including those that are not severe, and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4); 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If individual's impairments and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b).

The exertional requirements, or physical demands, of work in the national economy are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a). 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 and occasionally walking and standing. 20 CFR 416.967(a). Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds; even though the weight lifted may be very little, a job is in the light category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b). Medium work 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). 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). 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 CFR 416.967(e).

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have

only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions 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 (i.e., unable to 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). For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of mental functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

In this case, Petitioner alleges both exertional and nonexertional limitations due to her medical condition. Petitioner alleges disabling impairments due to arthritis/osteoarthritis, kidney cancer, headaches, asthma, high blood pressure, osteoporosis, right knee replacement, shoulder replacement, depression, and anxiety. She testified that she has arthritis in all major joints. She testified she had kidney cancer and in [REDACTED], a tumor was removed; but she still has a cyst in the left kidney at the six-month check-up. She testified that she had total right knee replacement in [REDACTED] but that she had to have a total revision of the right knee in [REDACTED]. In [REDACTED], she indicated she has right total shoulder arthroplasty. In [REDACTED], she testified she will have thumb surgery for arthritis. She testified she attends therapy three (3) times a week.

She testified she can lift a gallon of milk but not easily. She testified she can dress/undress, but some clothing is difficult. She testified that she can bathe/shower, but needs a brush to help her. She testified she can't vacuum, but she does sweep. She testified she can prepare sandwich meals. She testified that she needs assistance when grocery shopping. She testified that she is limited in using her hands and cannot kneel. She testified that she can stand for 3 hours continually; but depending on the day, she can continually sit for up to 4 hours, she can walk 1 to 1 ½ blocks, and she is on a 10-pound weightlifting restriction due to her right shoulder, but can lift 15 to 20 pounds with both arms. She testified that she also suffers from anxiety and depression. She testified she gets tired and not outgoing, but concentration is better on some days. She indicated she can interact, like with family, but it is not easy, due to being guarded. She testified she can remember, but varies day to day.

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources and nonmedical sources. SSR 16-3p.

In this case, Petitioner presented progress notes from [REDACTED] [REDACTED] [REDACTED], to [REDACTED], which supported her allegations of osteoporosis, kidney problems, knee problems, hypertension, and asthma. Exhibit H, pp. 8-153. Petitioner also presented multiple exam/MRIs confirming osteoarthritis. Exhibit B, pp. 2.-14, and Exhibit G, pp. 18-38. Finally, Petitioner presented medical evidence showing that she has shoulder problems. Exhibit B, p. 14. This evidence was sufficient to support Petitioner's allegation of arthritis/osteoarthritis, kidney cancer, asthma, osteoporosis, right knee replacement, shoulder replacement, and hypertension.

On [REDACTED] Petitioner had a psychological consultative exam, in which the licensed psychologist diagnosed Petitioner with persistent depressive disorder, generalized anxiety disorder, and social anxiety disorder. He noted that her prognosis is judged to be good. Exhibit E, pp. 10-14. Therefore, Petitioner also has a medical diagnosis supporting her symptoms of depression and anxiety.

With respect to the intensity, persistence and limiting effects of her symptoms, the medical evidence included MRIs, examinations, occupational therapy notes, progress notes, a consultative exam, and other medical evidence showing how Petitioner maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a). Petitioner presented medical evidence documenting impairments with her shoulders, knees, neck, back, and left hand. In progress notes dated from [REDACTED] [REDACTED] to [REDACTED] [REDACTED], the physician assistant diagnosed Petitioner with multiple impairments, including pulsatile neck mass; hypertension; asthma with exacerbation, unspecified asthma; kidney problems; renal cell cancer, left; right shoulder injury; neck mass – right and enlarging and painful (doctor diagnosis); knee bursitis left; osteoporosis of left thumb; and other medical diagnoses. Exhibit H, pp. 8-153. Petitioner had an exam of her neck soft tissue dated [REDACTED], in which the doctor impression was no masses are seen within the neck, mild diffuse enlargement of both lobes of the thyroid gland is visualized, severe changes of right C3-C4 facet joint arthrosis. Exhibit B, p. 4. Petitioner also had chronic pain of her shoulders. In an MRI of Petitioner's right shoulder dated [REDACTED], the doctor impressions were severe glenohumeral joint osteoarthritis, progressed compared to the prior study [REDACTED] [REDACTED] and other diagnosis. Exhibit B, p. 2. On [REDACTED], Petitioner had a right reverse total shoulder arthroplasty; and on December 16, 2016, Petitioner was discharged with a postoperative diagnosis of right shoulder secondary osteoarthritis with rotator cuff deficiency. Exhibit B, pp. 10-13. In fact, post-surgery, Petitioner presented occupational therapy notes, in which the occupational therapist indicated in her last assessment dated [REDACTED], that there was gains seen in ROM, strength and pain levels and rehabilitation potential is good. Exhibit 1, pp. 2-15.

Petitioner also had examinations of the left wrist/hand that showed chronic pain. An examination of Petitioner's left wrist dated [REDACTED], in which the doctor impression was osteoarthritis, basal joint of the thumb, and triscaphe joint of the left wrist. Exhibit B, p. 3. A visit summary dated [REDACTED], in which the doctor diagnosed Petitioner with primary osteoarthritis of first carpometacarpal joint of left hand. Exhibit B, p.1. An exam of Petitioner's left hand dated [REDACTED], in which the doctor impression was degenerative changes and osteopenia. Exhibit B, pp. 7-8. In fact, Petitioner presented a medical note showing that she will have left thumb ligament reconstruction tendon inter position surgery procedure on [REDACTED]. Exhibit 1, p. 1.

Finally, on [REDACTED], Petitioner had a consultative exam, in which the doctor concluded that she has a history of renal cell carcinoma and to follow-up with her physician; history of chronic pain of the cervical spine, lumbar spine, both shoulders, knees and left hand with surgical intervention; and on the date of the visit, she was able to complete all orthopedic tasks asked of her without difficult; patient has limited ROM and decreased motor strength; she does not require the use of an assistive device and gait is normal, drip strength is decreased bilaterally with 3/5 strength reaming and no digital dexterity loss bilaterally; and cardiac and pulmonary examination is essentially normal. Exhibit G, pp. 67-70. The doctor noted in the extremities and musculoskeletal examination of her that she had limited ROM of the right shoulder, but otherwise, all other range of motions intact and full. Exhibit G, p. 69.

Based on forgoing information and evidence, the undersigned Administrative Law Judge (ALJ) finds that the medical evidence supports Petitioner's history of arthritis/osteoarthritis, kidney cancer, asthma, osteoporosis, right knee replacement/persistent problems with the knees, shoulder problems, and hypertension. These medical diagnoses supports her limitations that she can stand for 3 hours continually, she can continually sit for up to 4 hours, she can walk 1 to 1 ½ blocks, and she can lift a maximum of 10 pounds.

Accordingly, the undersigned ALJ finds that based on a review of the entire record, including Petitioner's testimony, the evidence was sufficient to establish that Petitioner maintains the physical capacity to sedentary work as defined by 20 CFR 416.967(a).

With respect to Petitioner's nonexertional limitations, the medical evidence was less extensive. As stated above, Petitioner had a psychological consultative exam on [REDACTED], in which the licensed psychologist diagnosed her with persistent depressive disorder, generalized anxiety disorder, and social anxiety disorder. He noted that her prognosis is judged to be good. Exhibit E, pp. 10-14. In outpatient psychotherapy evaluations dated [REDACTED], to [REDACTED], Petitioner was diagnosed by the LMSW with depression, unspecified depression type, anxiety and anorexia nervosa in remission; and other depression. Exhibit H, pp. 104-128.

Based on the medical record presented, as well as Petitioner's testimony, Petitioner has mild limitations to her activities of daily living; mild to moderate limitations to her social functioning; and mild limitations to her concentration, persistence or pace. There was no evidence of episodes of decompensation.

Petitioner's RFC is considered at both Steps 4 and 5. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step 4 in analyzing a disability claim requires an assessment of Petitioner's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed within the past 15 years that was SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

Petitioner's work history in the 15 years prior to the application consists of work as a volunteer coordinator, administrative assistant, cashier, accountant, waitress, bartender, and loan officer. Petitioner's work history as an administrative assistant, accountant, or loan officer required sedentary work for physical exertion and were considered skilled work experience. See Exhibit D, p. 6, (Dictionary of Occupational Titles (DOT) – Strength category and Specific Vocational Preparation (SVP) rating).


Based on the RFC analysis above, Petitioner's exertional RFC limits her to no more than sedentary work activities and she has mild limitations to her activities of daily living; mild to moderate limitations to her social functioning; and mild limitations to her concentration, persistence or pace, in her mental capacity to perform basic work activities. In light of the entire record and Petitioner's RFC, including her mental limitations, it is found that Petitioner is able to perform past relevant work. Accordingly, Petitioner is not disabled at Step 4 and the assessment ends.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner not disabled for purposes of the SDA benefit program.

Accordingly, the Department's determination is **AFFIRMED**.

EJF/jaf



Eric J. Feldman
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]