



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 1, 2018  
MAHS Docket No.: 18-003674  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**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. After due notice, a telephone hearing was held on March 24, 2018, from Detroit, Michigan. The Petitioner was represented by himself. 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 Medical Assistance 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 January 30, 2018 the Petitioner applied for cash assistance State Disability Assistance (SDA).
2. On February 16, 2018 the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program. Exhibit A, pp.
3. On March 23, 2018 the Department sent the Petitioner a Notice of Case Action denying the SDA application based on DDS/MRT's finding of no disability. Exhibit A, pp. 169 – 171.
4. On April 12, 2018, the Department received Petitioner's timely written request for hearing disputing the denial of his SDA cash assistance application. Exhibit A, pp. 181-182.

5. The Petitioner alleged disabling impairments due to rheumatoid arthritis and pancreatitis.
6. On the date of the hearing, the Petitioner was [REDACTED] years of age with an [REDACTED], [REDACTED] birth date; he is [REDACTED]" in height and weighs about [REDACTED] pounds.
7. Petitioner is a high school graduate.
8. At the time of the application the Petitioner was not employed and last worked in December 2017.
9. Petitioner has an employment history of working as an auto mechanic repairing automobiles.
10. Petitioner has a pending disability claim with the Social Security Administration. Exhibit A, pp 154-155.

### **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. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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, he 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.

In the present case, Petitioner alleges disabling impairment due to rheumatoid arthritis and pancreatitis. The medical evidence presented at the hearing was reviewed and is summarized below.

On February 16, 2018, the Petitioner was seen by [REDACTED] for an office visit. This office treated Petitioner for his pancreatitis. The medical record indicates that the Petitioner has had a couple of episodes since November 2017 when he was hospitalized for pancreatitis. The records note that risk factors for pancreatitis are alcohol and despite having recurrent bouts the patient was still drinking; drinking only a few beers to up to 12 every single day. There was no weight loss and bowel movements were reported looser. Based upon x-rays, CT, MRI and MRCP, it was concluded that pseudocysts were shown and there were changes in the pancreatic head and body. The notes indicate past medical history of alcohol induced pancreatitis. Petitioner was prescribed over the counter [REDACTED] and [REDACTED] as well as [REDACTED] with food. The exam revealed Petitioner smelled of tobacco, and had active bowel sounds and diffuse tenderness across most of the upper abdomen. Noted no swelling and his right-hand index finger shows changes from past inflammation but his rheumatoid arthritis seems to be responding well to the [REDACTED]. The patient was advised that alcohol was the most likely cause of the pancreatitis with nicotine being a contributing factor. The notes further indicate that the patient likes drinking and did not indicate that he was stopping. Follow up was scheduled for 6 weeks.

A MRI of the abdomen was conducted on November 2, 2017 due to abdominal pain. It noted numerous hyperintense foci involving the pancreatic head and body which are non-specific which may represent pancreatic cysts/pseudocysts or neoplastic lesions. An x-ray of the abdomen was performed on October 5, 2017 due to abdominal pain that determine bowel gas pattern was normal, there were no calcifications or organomegaly. Phleboliths suspected in the pelvis, no free air.

The Petitioner was admitted to the hospital for two days on October 16, 2017 with complaints of abdominal pain onset for a couple of months. Symptoms include nausea and vomiting with reduced pain. Notes indicate patient self-reported 12 beers daily. The diagnosis was acute pancreatitis. Labs were normal except for lipase. The notes indicate that underlying etiology is likely alcohol abuse and daily marijuana use. The harmless acute pancreatitis core suggested a good prognosis and makes pancreatic

necrosis highly unlikely. The notes indicate that alcohol abuse was discussed due to 12 beers per day and patient did not feel he has a problem and that this use does not interfere with his daily life. The Patient was discharged in stable condition. Gallstones were ruled out.

The patient was seen for a two day stay on November 14, 2017 with symptoms of abdominal pain with mild tenderness to deep palpation and was discharged with same diagnosis, pancreatitis with etiology of alcohol abuse.

The Petitioner was seen by [REDACTED] on August 31, 2017 for follow up for rheumatoid arthritis. At the time of the exam the Petitioner was employed as an auto mechanic and indicated that he was able to care for himself. At the time of exam, the patient noted 10 of 10 pain level in hands, wrists, elbow knee and shoulder all bilateral. Alcohol use noted regular basis. The hands and wrists demonstrated no swelling, nodules or deformities and full range of motion with tenderness. Shoulder's full range of motion with tenderness to palpation. Patient knees notes no swelling, crepitus, warmth instability or baker's cyst and full range of motion with tenderness. The Musculoskeletal notes motor strength and tone normal, joints, bones and muscles no contracture, malalignment tenderness, synovitis, or bony abnormalities and normal movement of all extremities, no cyanosis edema, varicosities or palpable cord. The Assessment was Seropositive rheumatoid arthritis, monitor for worsening and a new medication [REDACTED] prescribed.

The Petitioner also sees a family practice doctor associated with [REDACTED] [REDACTED] medicine, who saw him several times in October and November 2017 with complaints of abdominal pain, intermittent nausea and lack of appetite. Exhibit A, pp. 68-90.

Petitioner was seen at [REDACTED] for pain and tingling in left wrist with swelling and worsening with repeated use. Non-radiating pain reported with tingling fingers were swollen. The assessment noted left hand and wrist pain and rheumatoid arthritis. X-ray was taken. Prednisone was administered. The notes suggested rheumatoid arthritis flare.

A December 1, 2017 with [REDACTED] also notes follow up of rheumatoid arthritis. At the time only bilateral hand swelling was reported no other joint discomfort or swelling and a pain severity was reduced to 4 out of 10. The physical exam noted no tenderness in the joints and only swelling in the bilateral 2<sup>nd</sup> and 3<sup>rd</sup> MCP.

An x-ray of left wrist was taken on August 22, 2017 due to pain without trauma with the impression, focal soft tissue swelling along the distal ulna. Correlate with physical examination findings to determine the need for further investigation with MRI. No acute osseous abnormality of the left hand with digits limited to secondary flexion.

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, the following listings were considered, Listing 5.00 Digestive System – Adult, 1.02 Major dysfunction of a joint(s) (due to any cause); and Immune System Disorders – Adult Section 14.09 Inflammatory Arthritis. 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).

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). 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).

At the hearing, the Petitioner indicated that he had exertional limitations due to arthritis causing him to be unable to lift required parts while employed, carry heavy objects, difficulty kneeling and stooping due to knee pain and weakness. In addition when suffering from pancreatitis he experienced abdominal pain sometimes severe in the past. The pancreatitis was intermittent and of varying degrees of severity with two hospitalizations in October 2017 and in November of 2017 and was likely caused by alcohol consumption of up to 12 beers per day. There was no evidence that Petitioner could not manipulate with his hands, could write and do housework, mow the lawn and vacuum as well as shop and prepare meals. Based upon the evidence presented it is determined that the Petitioner's limitations or restrictions are exertional in nature.

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).

In this case, the Petitioner testified that he could complete activities of daily living including cooking, grocery shopping, housekeeping including laundry and vacuuming and performs yard work and mows the lawn every two weeks. In his Activities of Daily Living form completed as part of his application he indicated that he spends all day if needed on laundry, lawn care vacuuming, washing dishes and that things take longer than usual. The Petitioner is also able to drive. The Petitioner indicated that he could be on his feet approximately one to two hours and sit about the same period. He was unsure how far he could walk and testified he could walk less than a half a mile. Petitioner testified that he could lift/carry 20 pounds. The Petitioner also testified that he had limitations on range of motion in shoulders, left hand and right knee. The objective medical evidence did not verify the limitations of range of motion in the shoulders or knees and only verified range of motion limitations in left hand due to swelling.

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.

The medical records presented do not demonstrate the severity of limitations due to the rheumatoid arthritis such that it prevents movement of any particular joint and at best describes swelling at times and pain. A review of the Petitioner's medical records show that he is diagnosed with Rheumatoid Arthritis and is on medication for control of the disease and is prescribed Tylenol and Ibuprofen for pain. The records also indicate a steroid shot was administered for his wrist due to swelling, and tingling. In addition the new medication Kevzara had lessened pain to a 4 out of 10 level in December 2017.

With respect to Petitioner's exertional limitations, it is found based on a review of the entire record that Petitioner maintains the physical capacity to perform light work as defined by 20 CFR 416.967(b).

#### **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 by Petitioner (as actually performed by Petitioner or as generally performed in the national economy) 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) and (2). 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 an auto mechanic. Petitioner's work required standing most of the day and lifting up to 50 pounds to transport heavy parts and frequently lifted 20 pounds, required medium to heavy physical exertion and based on the RFC analysis above, Petitioner does not have the exertional and nonexertional RFC to do this past employment. Because Petitioner is unable to perform past relevant work, A Step 5 assessment must be performed.

### **Step 5**

In Step 5, an assessment of Petitioner's RFC and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). If the individual can adjust to other work, then there is no disability. Disability is found if an individual is unable to adjust to other work.

At this point in the analysis, the burden shifts from Petitioner to the Department to present proof that Petitioner has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). When the impairment(s) and related symptoms, such as pain, only affect the ability to perform the exertional aspects of work-related activities, Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix 2, 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). However, 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). When a person has a combination of exertional and nonexertional limitations or restrictions, the rules pertaining to the strength limitations provide a framework to guide the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

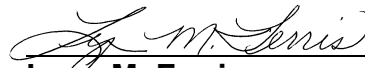
In this case, Petitioner was ■ years old at the time of application and the time of the hearing and, thus, considered to be a younger person (under age 50) for purposes of Appendix 2. He is a high school graduate and a history of skilled work, and therefore transferable, work experience. As discussed above, Petitioner maintains the RFC for work activities on a regular and continuing basis to meet the physical demands to perform light work activities. In this case, the Medical-Vocational Guidelines, 201.21, result in a not disabled finding based on Petitioner's exertional limitations.

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.

**DECISION AND ORDER**

Accordingly, the Department's determination is AFFIRMED.

LF/tm



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**Lynn M. Ferris**  
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) 763-0155; 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]

**Petitioner**

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

**cc:**

[REDACTED]  
[REDACTED]