



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: September 25, 2018  
MAHS Docket No.: 18-006474  
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 August 13, 2018, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Eric Carlson, Assistance Payments Supervisor.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. Exhibit B was received and marked and admitted into evidence. The record closed on August 20, 2018, and the matter is now before the undersigned for a final determination based on the evidence presented.

**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 January 11, 2018, Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On June 15, 2018, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program.

3. On June 18, 2018, the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability.
4. On June 26, 2018, the Department received Petitioner's timely written request for hearing.
5. Petitioner alleged disabling impairment due to physical impairments due to carpal tunnel of hands and wrists, cervical and lumbar back pain and herniation of discs with radiating pain from right shoulder blade down the left upper arm and neck pain with range of motion limitation. The Petitioner also alleges mental impairment due to depression and anxiety.
6. On the date of the hearing, Petitioner was [REDACTED] years old with a [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 application, Petitioner was not employed.
9. Petitioner has an employment history of work as a welder and as an office furniture assembler and as a subcontractor remodeling apartments, including painting and installing door knobs. The Petitioner also performed light duty work sorting screws and part and labeling machines and equipment. The Petitioner last worked on April 15, 2016.
10. Petitioner has a pending 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. 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 1**

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 2**

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. Social Security Ruling (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.

The medical evidence presented at the hearing, and in response to the interim order, was reviewed and is summarized below.

An MRI of Petitioner's cervical spine was performed on [REDACTED] 2017. The findings on the MRI were as follows. There is straightening of the cervical lordosis with suggestion of kyphosis at level C6-7 level. There are small, less than 1 cm, perineural cysts noted at multiple levels involving the mid-to-lower cervical spine. The visualized aspects of

the spinal cord have normal signal. Degenerative changes include diffuse bulging, spurring of the vertebral body endplates and uncovertebral joints. There is hypertrophy of the facets. C1-2 through C2-3 were unremarkable. C3-4 noted chronic moderate to marked left neural foraminal stenosis. Mild to moderate thecal sac effacement and minimal spinal cord effacement without central spinal canal stenosis. C4-5 noted chronic small posterior central disc protrusion or herniation with moderate spinal cord effacement. There is borderline mild central spinal canal stenosis. There is chronic mild left neural foraminal stenosis. At C5-6, there was chronic broad-based posterior central and left paracentral disc protrusion results in moderate thecal sac effacement and spinal cord effacement with borderline mild central spinal canal stenosis. Overall, this bulging has slightly decreased since the prior study. There is mild neuro foraminal stenosis. At C6-7, broad base disc bulging results in moderate spinal cord effacement and chronic mild central spinal canal stenosis. There is mild bilateral neural foraminal stenosis. At C7, T1 were noted as unremarkable. The Impression was perhaps slightly decreased diffuse disc bulging at C5-6. Otherwise, no significant interval changes since [REDACTED] 2014.

The Petitioner also submitted an MRI of the thoracic spine which was completed in December 2007. The impression in that old study noted focal disc protrusions at T5-6 and T6-7 and suggested at C5-6. At that time, there was a broad-based small posterior central disc protrusion at T6-7 which mildly flattened the anterior left aspect of the spinal cord.

The Petitioner was seen at Spectrum Health on [REDACTED] 2018, with complaint of left hip pain and neck pain for which physical therapy had been prescribed. Petitioner was recommended by his doctor to see a therapist for his depression. The notes indicate that Petitioner declined a referral at that time. Noted: chief complaint was hip pain as well as neck pain with stiffness. The notes further indicate a history of carpal tunnel release of both the right and left hand. The physical exam revealed a general appearance noting patient was alert, well appearing and in no distress, oriented to person place and time and to overweight. A depressed mood was noted. A decreased range of motion in the neck was also noted. An exam of the back was also performed and antalgic gait was noted, limited range of motion, pain with motion noted during the exam both the sacroiliac joints and sciatic notch is were nontender. Osteoarthritic changes were noted in both hands. The assessment noted spondylolisthesis of cervical region without myelopathy or radiculopathy. Chronic right-sided thoracic back pain, chronic neck pain and herniated cervical disc. Herniated thoracic disc without myelopathy was also noted. The patient was advised to return in six months for follow-up or sooner if symptoms worsen or fail to improve. The Petitioner was given Cymbalta, Meloxicam, Flexeril, as well as Tramadol.

On [REDACTED] 2017, the Petitioner's treating primary care physician noted in a letter the treatment he has received under her care since [REDACTED] 2017. The letter notes that Petitioner has neck and upper-back pain due to a work-related accident 10 years previous. Petitioner also was noted to have headaches, left arm pain, as well as,

anxiety and depression as a consequence of his pain. The letter notes that Petitioner has received spinal injections and physical therapy, both without improvement. The doctor was working on a treatment plan with Petitioner that included increasing physical activity, stretching and education and pain medication. The Petitioner was reported to be compliant with recommendations without relief of his symptoms. The doctor notes that this is due in large part to guarding from the chronic pain and his anxiety as a consequence of lack of income. The doctor notes that the Petitioner's tolerance for walking is 10 to 15 minutes on a flat surface, for standing 5 to 7 minutes, for sitting 20 to 30 minutes. He can occasionally lift a maximum of 15 to 20 pounds close to his body. He is not able to tolerate lifting over his shoulders. An MRI of his cervical spine shows degenerative disc disease including mild to moderate sized disc protrusion at C5-6 with thecal sac compression.

The Petitioner was seen by this doctor on [REDACTED] 2018, having last been seen by her on October 9, 2017. At that time, the patient reported numbness and tingling in headaches, arm pain and loss of circulation and fingers and weakness in arms and hands. The patient reports symptoms as slightly worse. Pain severity in the last week was average 8 out of 10, worst pain 9 out of 10 with the least being 6 out of 10. Pain interfered with his daily activities moderately in the last week. Pain is described as located in neck, mid back, arms, hands and head. Also noted was Petitioner was not sleeping well. The treatment tried since the last visit included home exercise program, physical therapy with no change in condition, and chiropractic or osteopathic treatment which helped his symptoms. General appearance was noted as alert, anxious affect. Motor strength was 5 out of 5 for fingers abduction, extension, wrist flexion, wrist extensors, elbow extension, elbow flexion and shoulder abduction. There was tenderness noted at soft tissues of neck and shoulders on palpation. A noted tremor in his hands. The doctor recommended physical therapy and managing his anxiety better will assist in the easing pain increased physical functioning. Reassured patient that he is not in significant risk of spinal cord injury due to the degenerative changes in neck nor is surgery warranted. The patient was referred to physical therapy.

The Petitioner began physical therapy on [REDACTED] 2018, for his back pain and neck pain. The Petitioner reported feeling down and depressed, having little interest or pleasure doing things, trouble staying asleep, having little energy, nearly every day.

The Petitioner has alleged that he suffers from depression and anxiety, however, has not participated in any therapeutic treatment for his mental impairment. The Petitioner's treating doctor has prescribed medications for these impairments.

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 3**

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 1.04 disorders of the spine; 12.04 depressive, bipolar disorder and related disorder, 12.06 anxiety and obsessive-compulsive disorders 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 his medical condition. Petitioner testified that he could do light loads of laundry, drive himself to the doctor and shopping 8 to 10 miles, cook meals and simple things in microwave, can vacuum, and clean his house with some breaks. Petitioner also can climb stairs. The Petitioner further testified that he could walk one mile, could slowly bend at waist, perform a squat, shower and dress himself, touch his toes and that his legs and feet were fine. The Petitioner testified that he could lift 20 pounds and then



reduced that to 7 pounds, a gallon of milk, and could possibly do a job where he could talk on the phone or use a computer if he had computer skills. When asked how long he could sit, he indicated it depends. The Petitioner is affected by his pain; however, his treating doctor opined in 2017 that he could sit 20 to 30 minutes and lift between 15 to 20 pounds close to his body occasionally but limited his standing as discussed above.

With respect to his mental impairment of depression and anxiety, he expressed that his anxiety comes out of dealing with society and people and that he becomes very irritable due to his pain. His depression causes him to not leave the house, feelings of worthlessness. He also testified that he does have friends who he sees although not often.

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.

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 sedentary work as defined by 20 CFR 416.967(a).

Based on the medical record presented, as well as Petitioner's testimony, Petitioner has mild to moderate limitations on his mental ability to perform basic work activities. There was no objective medical evidence that evaluated these factors other than notes of his doctor's indicating he is depressed and anxious about his financial situation and pain. The Petitioner has not received any treatment or therapy for his mental impairment and declined a referral to a mental health provider. He has not been examined by a psychiatrist.

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

#### **Step 4**

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 a welder and as an assembler of office furniture. He performed this work until he sustained a work injury. This job required him to walk 8 to 10 hours daily and stand for 7 to 8 hours, sit one hour and reach 8 to 10 hours. He lifted 80 pounds as the maximum and 15 to 40 pounds daily with 25 pounds being the most frequently lifted. After his injury, the Petitioner was placed on light duty and was responsible for sorting screws and parts and placing labels on machines requiring him to sit and stand as needed. Petitioner also performed work as a subcontractor handyman, painting and changing door knobs. The Petitioner last worked in 2016. This job required that he walk 5 to 8 hours a day, stand 4 to 5 hours, sit 2 to 3 hours and climb 6 to 8 hours. The heaviest weight he carried was 20 pounds and frequently carried less than 10 pounds. In addition, the Petitioner's doctor noted he could sit 20 to 30 minutes and lift 15 to 20 pounds close to his body occasionally.

Based on the RFC analysis above, Petitioner's exertional RFC limits him to no more than sedentary work activities. As such, Petitioner is incapable of performing past relevant work. Petitioner also has minimal limitations in his mental capacity to perform basic work activities. In light of the entire record, it is found that Petitioner's nonexertional RFC prohibits him from performing past relevant work.

Because Petitioner is unable to perform past relevant work, Petitioner cannot be found disabled or not disabled at Step 4; and the assessment continues to Step 5.

### **Step 5**

If an individual is incapable of performing past relevant work, Step 5 requires an assessment of the individual's RFC and age, education, and work experience to determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v); 20 CFR 416.920(c). If the individual can adjust to other work, then there is no disability; if the individual cannot adjust to other work, then there is a disability. 20 CFR 416.920(a)(4)(v).

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(c)(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). 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).

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 ■ years old at the time of hearing, and, thus, considered to be a younger individual (age 18-44) for purposes of Appendix 2. He is a high school graduate with a history of work experience as a welder, office furniture assembler, and light duty work standing and sitting sorting screws and labeling equipment, as well as handyman work painting interior walls and installing door knobs. As discussed above, Petitioner maintains the exertional RFC for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities.

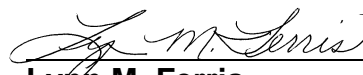
Based solely on his exertional RFC, the Medical-Vocational Guidelines, 201.21, result in a finding that Petitioner is not disabled. However, Petitioner also has impairments due to his mental condition. As a result, he has a nonexertional RFC imposing mild limitations in his activities of daily living; mild limitations in his social functioning; and no noted limitations in his concentration, with moderate limitations with regard to persistence or pace. It is found that those limitations would not preclude him from engaging in simple, unskilled work activities on a sustained basis. Therefore, Petitioner is able to adjust to other work and is **not** disabled at Step 5 on the basis of his mental impairment as well.

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**.

LMF/



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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**

Pamela Wells  
MDHHS-Ludington-Hearings

**Petitioner**

[REDACTED]  
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