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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: October 11, 2019
MOAHR Docket No.: 19-007605
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 August 15, 2019, from Detroit, Michigan. Petitioner appeared on her own behalf. [REDACTED], Petitioner's mother, also appeared at the hearing. Participants on behalf of the Department of Human Services (Department) included Linda Kennedy, Lead Worker.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. Medical records from [REDACTED], [REDACTED], and a Medical Needs form completed by Petitioner's nurse practitioner, were received and marked into evidence as Exhibit 1. The record closed on September 16, 2019, and the matter is now before the undersigned for a final determination based on the evidence presented.

ISSUE

Did the Department properly determine that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit program?

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], 2018, Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On April 30, 2019, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 2-8).

3. On July 12, 2019, the Department sent Petitioner a Benefit Notice denying the application based on DDS/MRT's finding of no disability (Exhibit E, pp. 877-878).
4. On July 10, 2019, the Department received Petitioner's timely written request for hearing (Exhibit E, p. 879).
5. Petitioner alleged disabling impairment due to neuropathy, memory loss, depression and bipolar disorder.
6. On the date of the hearing, Petitioner was ■ years old with an ■■■■■, 1973 birth date; she is ■" in height and weighs about ■ pounds.
7. Petitioner attended high school through the tenth grade and has not obtained her GED.
8. At the time of application, Petitioner was not employed.
9. Petitioner has not been employed in the past 15 years.
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 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. 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.

On [REDACTED], 2018, Petitioner was seen by [REDACTED] Ph. D. for a mental status examination. The Medical Source Statement indicated that Petitioner had a moderate to marked impairment in her ability to understand and remember instructions, locations and work-like procedures. Petitioner had a marked impairment in her ability to concentrate, focus and persist sufficiently to carry out instructions and sustain a normal work routine. Petitioner could interact appropriately with co-workers and supervision. She could adhere to basic standards of neatness and cleanliness. Lastly, the statement indicated that Petitioner may have a moderate impairment in her ability to adjust to some physical changes in the work environment because of her neuropathy. (Exhibit A, pp. D197-D201).

On [REDACTED], 2018, Petitioner was seen at [REDACTED] for an Electromyography-Nerve Conduction Study. The findings included that there was evidence of a chronic axonal degeneration sensory more than motor peripheral neuropathy most likely a complication of alcoholism. The interpretation went on to stated that it would not likely improve in the future but also should not progress in the future as long as she remains free of alcohol. (Exhibit A, pp. D243-D244).

On [REDACTED], 2018, Petitioner was seen at [REDACTED] for referral for neuropsychological evaluation to rule-out objective cognitive deficits in the context of reported problems with memory and a history of alcohol abuse. The summary indicated that Petitioner performed in the low-average range but exhibited a profound recall deficit in addition to variability on tasks of executive functioning. The etiology of the deficits was said to be difficult to decipher but likely included a history of alcohol abuse and subsequent malnutrition. (Exhibit A, pp. D256-D261).

On [REDACTED], 2018, Petitioner was seen at [REDACTED] with a chief complaint of weakness. Petitioner was noted to be ambulatory and her vital signs were stable. Petitioner was noted to be a chronic alcoholic and a daily drinker. Petitioner stated that she had paresthesias in her bilateral upper arms from her elbows to her wrist. Petitioner also stated that her legs felt weak. Petitioner's neurological examination was nonfocal. The record goes on to state that Petitioner does appear a little weak however she is a chronic alcoholic and is likely suffering from chronic debility from alcoholism. All of Petitioner's electrolytes were non-concerning and normal. (Exhibit A, pp. D855-D859).

On [REDACTED], 2018, Petitioner was seen at [REDACTED] with a chief complaint of difficulty sleeping. The assessment indicated insomnia, vitamin D deficiency and severe recurrent major depression. (Exhibit A, pp. D114-D115).

On [REDACTED] 2018, Petitioner was seen at [REDACTED] with a chief complaint of low back pain. The assessment indicated lumbago with sciatica. (Exhibit A, pp. D112-D113).

On [REDACTED] 2019, Petitioner was seen at [REDACTED] with a chief complaint of left foot pain. Petitioner ran into the corner of a door approximately three weeks prior. Petitioner was given medication and told to go to the emergency room if symptoms worsen. (Exhibit A, pp. D110-D111).

On [REDACTED] 2019, Petitioner was seen at [REDACTED] with a chief complaint of left foot pain from a previous injury. Petitioner was seen at the wound clinic in Alpena. Petitioner stated that she needed to use handrails for severe neuropathy in her feet. Petitioner had a left foot ulcer on the dorsal aspect from a wound that occurred before last Christmas. Petitioner required stitches. Petitioner did not care for the wound and it became infected. Petitioner was otherwise feeling well and denied any fevers or other issues. Petitioner indicated that she has not drank alcohol in the past year. Petitioner had severe neuropathy from alcoholism. Petitioner smokes and has no desire to quit. The assessment indicated skin abscess of heel; open fracture of the heel; lumbago with sciatica; severe recurrent major depression; sequelae of toxic neuropathy; and alcohol abuse – in remission. (Exhibit A, pp. D. 108-110).

On [REDACTED], 2019, Petitioner was seen at [REDACTED] with a chief complaint of lower back pain for the prior two weeks. Petitioner was given an injection.

The exam was stable with no red flags and no focal neuro deficits. (Exhibit A, pp. D107-108).

On April 15, 2019, Petitioner underwent a medical evaluation. Petitioner's chief complaints at that time were peripheral neuropathy, poor balance, and back pain. The conclusion indicated that Petitioner had a history of neuropathy and poor balance possibly due to alcohol use. Petitioner utilized a cane to ambulate distances greater than 30 feet. Petitioner had mild difficulty with orthopedic maneuvers. Petitioner's grip strength and digital dexterity in her hands were preserved. (Exhibit A, pp. D83-D87).

On [REDACTED] 2019, Petitioner underwent a Mental Status Examination. Petitioner identified medical conditions including neuropathy, memory loss and depression. The Medical Source Statement indicated that Petitioner had moderate impairment in her ability to understand and remember instructions, locations and work-like procedures. Marked impairments in her ability to concentrate and persist sufficiently to carry out instructions and sustain a normal work week. The statement indicated that Petitioner was capable of interacting appropriately with co-workers and supervision and she could adhere to basic standards of neatness and cleanliness. It was believed that Petitioner could intellectually and psychologically adapt to physical changes in a work environment. (Exhibit A, p. D89-D94).

On [REDACTED], 2019, Petitioner was seen at [REDACTED] with a chief complaint of back pain. Petitioner was participating in physical therapy. Petitioner was also noted to be under the care of a behavioral health therapist for depression. (Exhibit 1, pp. 1-3).

On [REDACTED] 2019, Petitioner was seen at [REDACTED] for a speech/language/cognition evaluation. The assessment indicated that Petitioner presented with cognitive communication deficits as characterized by short term memory deficits. Petitioner demonstrated appropriate cognitive skills for reasoning and other executive functioning skills but struggled with retaining the information from day to day, often requiring her to re-do work. Petitioner's prognosis was listed as poor. (Exhibit 1, pp. 6-10).

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 12.02 (neurocognitive disorders); 12.04 (depressive, bipolar and related disorder); and 12.11 (neurodevelopmental 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). Where the evidence establishes a medically determinable mental impairment, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. The effect on the overall degree of functionality is evaluated under four broad functional areas: (i) understand, remember, or apply information; (ii) interact with others; (iii) concentrate, persist, or maintain pace; and (iv) adapt or manage oneself. 20 CFR 416.920a(c)(3), to which a five-point scale is applied (none, mild, moderate, marked, and extreme). 20 CFR 416.920a(c)(4). The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c)(4).

In this case, Petitioner alleges both exertional and nonexertional limitations due to her medical condition. Petitioner testified that she could dress/undress herself; bathe/shower herself; use the bathroom unassisted; eat unassisted; complete chores; prepare simple meals; and bend at the waist. Petitioner stated that she could not squat due to her neuropathy; stand for more than 15 minutes without experiencing pain; walk more than one half block; sit for more than 30 minutes without experiencing pain or use her hand due to her neuropathy. Further, Petitioner testified that her short term memory is poor; she has difficulty with concentration as she is unable to focus on more than one task at a time; she is unable to complete the same tasks over and over again as she forgets after she has completed the task once; and has difficulty following instructions.

Petitioner's testimony is consistent with her mental health examinations. In [REDACTED] 2018, it was noted that Petitioner had moderate to marked impairment in her ability to understand and remember instructions, locations and work-like procedures and marked impairment in her ability to concentrate, focus and persist sufficiently to carry out instructions and sustain a normal work routine. Similarly, on [REDACTED], 2019, it was noted

that Petitioner had moderate impairment in her ability to understand and remember instructions, locations and work-like procedures and marked impairments in her ability to concentrate and persist sufficiently to carry out instructions and sustain a normal work week.

Petitioner's cognitive examination on [REDACTED], 2019 noted that she had short term memory deficits and struggled with retaining the information from day to day, often requiring her to re-do work. Petitioner's prognosis was listed as poor. On [REDACTED], 2019, Petitioner's treating nurse practitioner indicated that she was unable to work any job and was unable to state for how long Petitioner would be unable to work any job. (Exhibit 1, pp. 11-12).

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 light work as defined by 20 CFR 416.967(b). Based on the medical record presented, as well as Petitioner's testimony, Petitioner has moderate marked limitations on her mental ability to perform basic work activities. 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 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).

Based on the RFC analysis above, Petitioner's exertional RFC limits her to no more than light work activities. Petitioner also has moderate to marked limitations in her mental capacity to perform basic work activities. Petitioner does not have any work history in the 15 years prior to the application and therefore there can be no assessment as to whether Petitioner can perform past relevant work. 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).

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 ■ years old at the time of hearing, and, thus, considered to be a younger individual (age 45-49). However, Petitioner also has cognitive impairments. As a result, she has a nonexertional RFC imposing marked limitations in the ability to understand, remember, or apply information; moderate to marked limitations in the ability to interact with others; the ability to concentrate, persist or maintain pace; and moderate to marked limitations in the ability to adapt and manage herself. The Department has failed to present evidence of a significant number of jobs in the national and local economy that Petitioner has the vocational qualifications to perform in light of her nonexertional RFC, age, education, and work experience. Therefore, the evidence is insufficient to establish that Petitioner is able to adjust to other work. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

The record established that Petitioner has a significant history of alcohol abuse. The record also lists her alcohol abuse as a potentially contributing factor to her neuropathy and memory loss. Petitioner acknowledged her history of alcohol abuse. Petitioner testified that she had been sober for approximately two years prior to her relapse which

occurred approximately six months prior to the hearing date. In the two years that Petitioner was sober, she continued to require treatment for neuropathy and memory loss. In the six months since she last relapsed, she has continued treatment for neuropathy and memory loss. Based upon Petitioner's testimony and the medical records provided, her condition has not improved during her periods of sobriety. Therefore, although there is evidence of significant prior alcohol abuse, there is no evidence to suggest that Petitioner's mental impairments would be resolved absent the abuse of alcohol. Therefore, Petitioner's abuse of alcohol is not a contributing factor material to the determination that she is disabled and does not impact the disability finding. See 20 CFR 416.935(b).

DECISION AND ORDER

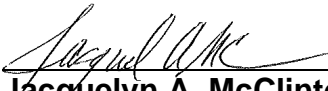
DISABLED: The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner **disabled** for purposes of the SDA benefit program.

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

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Reregister and process Petitioner's [REDACTED] 2018 SDA application to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified;
3. Review Petitioner's continued eligibility in April 2020.

JAM/tlf



Jacquelyn A. McClinton
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

Via Email:

MDHHS-GR8North-Hearings
BSC1 Hearing Decisions
L. Karadsheh
MOAHR

Petitioner – Via First-Class Mail:

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