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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]
MI [REDACTED]

Date Mailed: January 15, 2020
MOAHR Docket No.: 19-010995
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 November 13, 2019, from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Cristin Gougeon, Eligibility Specialist.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. At the hearing, the Petitioner provided additional medical records which were marked as Exhibit B and Exhibit C, and were made a part of the hearing record. The Interim Order required the Department to obtain six (6) months of treatment records from Community Mental Health; the Department was to obtain six (6) months of treatment records including any test results including x-rays and MRI's from Dr. [REDACTED]; the Department was to obtain Mental Residual Functional Capacity Assessment from Dr. [REDACTED], the [REDACTED], and a DHS-49 Medical Examination Report from Dr. [REDACTED]; the requested documents were not received. The record closed on December 16, 2019, 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. At the hearing, the Petitioner withdrew his request for a hearing dated September 30, 2019 based upon the Department's denial of Medical Assistance (MA) as the matter was resolved.
2. On [REDACTED], 2019, Petitioner submitted an application seeking cash assistance on the basis of a disability.
3. On September 23, 2019, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 12-18).
4. On or about September 27, 2019, the Department sent Petitioner a Notice of Case Action denying the application based on DDS' finding of no disability.
5. On September 30, 2019, the Department received Petitioner's timely written request for hearing (Exhibit A, pp.3-4).
6. Petitioner alleged disabling impairment due to Hepatitis C, rheumatoid arthritis, chronic joint pain in cervical spine (neck) knees and wrists. At the time of the hearing, the Hepatitis C had resolved after treatment. The Petitioner alleged mental impairment due to PTSD, depression, intermittent explosive disorder and bipolar disorder.
7. On the date of the hearing, Petitioner was [REDACTED] years old with a [REDACTED], 1973 birth date; Petitioner is almost [REDACTED] years of age; he is [REDACTED]' [REDACTED]" in height and weighs about [REDACTED] pounds.
8. Petitioner has a GED and was in special education when in school in junior high school.
9. At the time of application, Petitioner was not employed.
10. Petitioner does not have an employment history of work. While in the Michigan Rehabilitation Services program, he worked for approximately one month bagging cereal boxes and sorting and packing cereal but quit that work due to his wrist hurting.
11. Petitioner has a pending disability claim with the Social Security Administration.
12. Petitioner requested a timely hearing on September 30, 2019.

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 90 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 was reviewed and is summarized below.

In this case, the Petitioner just recently began treatment at [REDACTED] and was only recently evaluated in September 2019. Petitioner is seen by a case manager and has seen a psychiatrist for an evaluation but had only been in treatment for one or two months at the time of the hearing. The Petitioner alleges anxiety, depression, anger issues with varied sleep patterns. A Psychosocial Assessment noted learning problems noted as mild; irritability, and verbal aggression noted as severe. Anxiety was noted as severe with excessive worry, fatigue, irritability, agitation and poor concentration. Depression was noted as mild and inattention was noted as moderate with racing thoughts and decreased sleep. Activities of daily living were all noted as independent, except for the ability to pay bills. Petitioner's intellectual functioning was evaluated as below average and impaired concentration was noted and behavior was restless. At the conclusion of the evaluation, the Petitioner was recommended for case management for assessment, linking, advocacy and monitoring and services need was noted as routine, not urgent or emergent.

Petitioner was seen in August 20, 2019, and a progress note indicates that his friend Sara, who accompanied him to the appointment, requested an urgent appointment with a CMH provider so that medications could be prescribed; an intake appointment was held on August 19, 2019. The Petitioner had a Psych Evaluation on September 26, 2019, at [REDACTED]. At the time of the evaluation, he had not been on any medications for his mental health issues for two or three years. He reported first being on medications for mental health issues as a kid. Notes indicate a past substance abuse problem and alcohol abuse with three or four DUIs and was unclear when his last use of substances or alcohol was. The mental status exam notes indicate fair recent memory with poor-to-fair remote memory, speech is normal rate and rhythm. Examiner noted Petitioner was rocking back and forth in his chair. Mood was slightly anxious and relaxed as the interview progressed with a congruent affect. Thinking was generally goal-directed, simple and concrete, without delusions, no hallucinations, with fair-to-poor insight, and fair judgment. The assessment was mood disorder, intermittent explosive disorder, history of learning disability with cognitive deficiency and Post Traumatic Stress Disorder, (PTSD) and rule out bipolar disorder and antisocial personality disorder. Alcohol Use Disorder, marijuana use disorder and cocaine use disorder were in remission. Case management services were recommended and to be referred to CMH psychiatrist. Petitioner was prescribed medications: Cymbalta for mood and anxiety and Seroquel for mood and agitation. During a progress meeting on September 23, 2019, the Petitioner declined group therapy due to difficulty being around other individuals. The Petitioner was evaluated as not having suicidal risk or homicidal ideation. The Petitioner was to receive outpatient psychiatric services.

No mental residual functional capacity assessment was returned by the CMH provider as requested by the Interim Order.

Petitioner has also alleged physical impairments and the summary of the medical evidence follows.

Petitioner had x-rays of the lumbar spine, cervical spine and thoracic spine which showed mild degenerative changes. On April 23, 2019, x-rays of the bilateral knees, hands, wrists noted mild degenerative changes in medial compartment of both knees. An x-ray of cervical spine on January 29, 2019, noted disc space narrowing at C6-C7. X-rays of the right and left wrists were taken on April 23, 2010, and were noted to have no soft tissue swelling or calcification, with some osteoporosis in right wrist, left wrist had no osteoporosis. X-ray of right knee showed no joint space narrowing, or marginal erosion and no effusion. At the conclusion of these x-rays, the Impression was no evidence of arthritis in the bilateral wrists and hands, mild degenerative changes in the medial compartment of the knees.

The Petitioner had a residual function capacity assessment evaluation by [REDACTED] on June 26, 2019, to determine his tolerance to perform work tasks. The evaluation concluded that Petitioner demonstrated the ability to perform within the full range of Sedentary physical demands. The Petitioner, during evaluation and testing, lifted 8 pounds to below the waist height and carried 27.5 pounds. Non-material handling testing indicated an occasional tolerance for bending, fine coordination, repetitive kneeling, simple grasping, stair climbing and walking. Petitioner was able to perform above shoulder reach and squatting with frequent tolerance. Forward reaching was also demonstrated on constant basis. Notes indicate activities to avoid were crawling and firm grasping.

The evaluator noted that she observed significant observational and evidence based inconsistencies resulting in self-limiting behavior and submaximal effort by Petitioner. Reliability of pain results obtained during testing indicated functional pain reports were unreliable and function results were based on demonstrated biomechanics. The final assessment noted that Petitioner could sit for 5 hours 54 minutes and 2 hours at a time; stand 3 hours and 22 minutes with a total of 39 minutes at one time. He could walk occasionally, reach above shoulder frequently, simple grasping occasionally. He could squat frequently, kneel occasionally and stair climb occasionally. See Exhibit A, pp. 148-155.

The Petitioner was seen at a pain management clinic based upon a referral from Dr. [REDACTED], his rheumatologist, on June 25, 2019. After a full physical evaluation, the Impression was C7 and C8 sensory deficit, Cervicalgia, known degenerative disc disease of C6-C7 with suspicion of disc herniation of cervical spine or stenosis. An MRI was recommended. The results of the MRI were not part of the medical evidence. Cervical epidural injections were also tentatively scheduled.

On June 8, 2019, Petitioner was seen by his rheumatologist with complaints of pain in his neck radiating down his back and pain in his knees without swelling. The clinical impression was cervical radiculopathy, inflammatory arthritis, osteoarthritis, rheumatoid factor was positive, function class 3, with good prognosis. Petitioner was referred to

physical therapy for cervical spondylosis and radiculopathy and to pain management doctor for evaluation. Petitioner did receive an epidural injection for neck pain.

Petitioner was seen for a new patient visit in January 2019 and complained of neck pain and numbness in the back of his neck for about two to three months. He also complained of low-back pain. Petitioner also reported depression. After the physical exam, a depression screening was ordered and various labs. X-rays of lumbar, thoracic and cervical spine were ordered.

The Petitioner was treated for Hepatitis C with Eplclusa and notes on May 23, 2019, indicate the provider noted they were not sure if rheumatoid factor is positive due to the previously untreated Hepatitis C, which could affect the rheumatoid factor results.

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 1.02 Major dysfunction of a joint due to any cause; 1.04 Disorders of the spine; 12.04 Depressive, bipolar and related disorders; 12.06 Anxiety and obsessive-compulsive disorder; 12.08 Personality and impulse-control disorders and 14.09 Inflammatory arthritis 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 (understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself) 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 stand 10 minutes and can sit on the couch an hour with some pain in the lower back. He could walk a city block (about a quarter of a mile) and perform four or five squats. Petitioner can shower and dress himself, tie his shoes and touch his toes. Petitioner's pain at the time of the hearing was a 6.5-7 out of 10. Petitioner is right-handed and had pain in his elbow, and knee problems bilaterally with right knee worse. Petitioner could carry a gallon of milk, (about 7 pounds) and had neck pain and can climb stairs.

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, and Petitioner's testimony regarding his symptoms, Petitioner has moderate limitations, except for ability to interact with others, on his mental ability to perform basic work activities based upon the limited medical evidence regarding his mental impairments. Four broad functional areas understand, remember, or apply information; interact with others; concentrate, persist, or maintain pace; and adapt or manage oneself 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.* With respect to understanding and remembering and applying information the Petitioner has moderate limitations; with

respect to his ability to concentrate, persist or maintain pace and manage himself the Petitioner is moderately limited. His ability to interact with others is markedly limited.

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 has no demonstrated work history in the 15 years prior to the application and thus, has no past relevant work

Because Petitioner has no 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 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).

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 46 years old at the time of application, 46 years old at the time of hearing and will be 47 in February 2020, and thus, considered to be a younger individual (age 45-49) for purposes of Appendix 2. He has a GED with no current history of work experience. Petitioner's nonexertional RFC regarding his mental conditions do not demonstrate that Petitioner's limitations would preclude him from engaging in simple unskilled work activities on a sustained basis and does not preclude him from being able to adjust to other work. 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, Rule 201.27, result as well in a finding that Petitioner is not 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 not disabled for purposes of the SDA benefit program. The Petitioner's Request for Hearing regarding the Department's denial of his application for Medical Assistance was withdrawn by Petitioner on the record as the matter was resolved.


DECISION AND ORDER

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

Petitioner's Hearing Request regarding the denial of his application for Medical Assistance is hereby **DISMISSED**.

IT IS SO ORDERED.

LMF/jaf



Lynn M. Ferris

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

DHHS

Jessica Tokar
MDHHS-Midland-Hearings
BSC2
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Petitioner

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