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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]
[REDACTED]
[REDACTED]

Date Mailed: January 23, 2020
MOAHR Docket No.: 19-011472
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 27, 2019, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Tamara Jackson, Hearing Facilitator.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. Additional records were received, marked and admitted into evidence as Exhibit 2. The record was subsequently closed on December 27, 2019 and the matter is now before the undersigned for a final determination 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 or around [REDACTED] 2019, Petitioner submitted an application for cash assistance on the basis of a disability.
2. On or around [REDACTED] 2019, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program. The DDS determined that Petitioner was capable of performing other work. (Exhibit A, pp. 9-15)

3. On [REDACTED], 2019, the Department sent Petitioner a Notice of Case Action denying her SDA application based on DDS' finding that she was not disabled. (Exhibit A, pp. 3-7)
4. On [REDACTED], 2019, Petitioner submitted a written Request for Hearing disputing the Department's denial of her SDA application. (Exhibit A, pp. 164-165)
5. Petitioner alleged disabling impairments due to degenerative disc disease of the back and neck causing pain, osteoarthritis in the right knee and shoulder, a right shoulder tear, heel spurs in the right foot, and obesity. Petitioner confirmed that she did not allege any mental disabling impairments.
6. As of the hearing date, Petitioner was 51 years old with a [REDACTED], 1968 date of birth; she was 5'11" and weighed 235 pounds.
7. Petitioner obtained an associate degree and has reported employment history of work as a crib attendant pulling parts/labor in a manufacturing factory and as a shipping/receiving clerk. Petitioner has not been employed since 2018.
8. Petitioner has a pending disability claim with the Social Security Administration (SSA).

CONCLUSIONS OF LAW

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

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

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (April 2017), 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 thoroughly reviewed and is briefly summarized below.

X-ray imaging of Petitioner's cervical spine taken on [REDACTED], 2019 showed moderate reversal of the normal cervical lordosis with multilevel disc degeneration, most pronounced at C6 – C7 with bilateral foraminal stenosis. (Exhibit 2)

Petitioner's August 2017 cervical spine MRI showed moderate degenerative disc and endplate changes at C6 – C7 without disc extrusion. Straightened cervical lordosis with a slight reversal, but otherwise intact and particular alignment. Symmetric disc bulging with a small protrusion/disc osteophyte complex on the left and patent bilateral foramina. Small midline disc bulge with annular fissure at C4 and C5, as well as small midline annular fissure at C4 – C5 without extrusion or protrusion. (Exhibit A, pp 91 – 96)

Results of an MRI of Petitioner's lumbar spine performed on September 1, 2019 show mild levocurvature of the lumbar spine. Grade 1 anterolisthesis of L3 in relation to L4 measuring 2 mm. Grade 1 retrolisthesis of L1 in relation to L2 measuring 2 mm. moderate L3 – L4 and L4 – L5 facet arthropathy, and small facet effusions at L4 – L5, right greater than left. STIR hyper intensity is noted in the right L4 and bilateral L5 pedicles with STIR hyper intensity in the L4 – L5 facet joints suggesting reactive stress injury from altered biomechanics and inflammatory facet arthropathy at L4 – L5. Type II Modic endplate changes at the T12 – L1 and L1 – L2 which is mild to moderate degree. Disc desiccation with moderate disc height loss at T12 – L1 with minimal disc height loss and disc desiccation at L1 – L2 through L3 – L4. A circumferential disc bulge measuring 1.5 mm in AP dimension he faces the ventral epidural space at the L1 – L2 level. A circumferential disc bulge he faces the ventral epidural space with mild foraminal encroachment bilaterally from the disc bulge at the L2 – L3. Mild to moderate central canal stenosis at the L3 – L4. At the L4 – L5, a circumferential disc bulge measuring 2 mm in dimension he faces the ventral epidural space. A left lateral annular tear and mild to moderate central canal stenosis as well as mild to moderate right stenosis from the disc bulge were noted. Petitioner has extensive multilevel disc degeneration and spondylosis of the lumbar spine most pronounced at the T-12 – L1 and L1 – L2 with mild to moderate Type II Modic endplate change. She also had mild inflammatory facet arthropathy at L4 – L5 with a reactive stress injury noted. (Exhibit 2). A review of an MRI completed in [REDACTED] 2017 indicates that Petitioner's condition may have worsened since that time. (Exhibit A, pp. 80-81)

Results from an MRI of Petitioner's right shoulder performed on October 18, 2019 show a retracted full thickness tear of the supraspinatus and anterior infraspinatus tendons with severe muscular atrophy. A tear of the superior fibers of the subscapularis were found, as was a medial dislocation of the proximal long head biceps tendon. Mild glenohumeral joint osteoarthritis likely secondary to rotator cuff tear and rotator cuff arthropathy were found. It was noted that Petitioner had acromioclavicular osteoarthritis. An ultrasound of Petitioner's right shoulder performed on [REDACTED], 2019 had similar findings and conclusions. (Exhibit 2).

Records from Petitioner's treatment with Lapeer Family Care, specifically, office visit notes from an [REDACTED], 2019 appointment indicate that Petitioner presented for a physical and was reported to have high cholesterol with a BMI of 34.7. Petitioner complained of back and neck pain for several years that is made worse by heavy activity, deep flexion and extension. The pain is achy and sharp with certain provocative motions as noted. The pain is worsened by prolonged sitting or standing. Upon physical examination, Petitioner was found to have decreased motion and tenderness to the lumbar spine. On [REDACTED], 2019, Petitioner presented complaints of right neck pain radiating to the right shoulder. She reported that she has tried heat and ice without relief and the pain has caused decreased range of motion with right shoulder movement and when turning her head to the right. (Exhibit A, pp.59 – 74)

Records from Petitioner's visits with her Primary Care Provider Dr. Abraham were reviewed. (Exhibit A, pp. 105-130). Records show that Petitioner was receiving treatment for degenerative disc disease in her back and neck, right heel spur, obesity, chronic pain, osteoarthritis in the right knee, and degenerative joint disease of the shoulder, knee, tailbone. An examination on [REDACTED] 2019 showed limited range of motion to the right arm abduction and extension 90° and tenderness of the right knee with crepitus. A physical examination in [REDACTED] 2019 showed limited range of motion to the cervical spine upon right lateral flexion and right rotation, as well as tenderness noted over the paraspinal muscles overlying the facet joints on the right side, and tenderness to palpation noted over the SI joint on the right side with limited range of motion on extension of the right lumbar spine. Patrick's sign positive on the right side. (Exhibit A, pp.105 – 130)

Treatment records from Petitioner's visits with the Neuro-Pain Consultants Clinic were reviewed and indicated she was receiving treatment for osteoarthritis of the knee, shoulder joint pain, solitary sacroiliitis, cervical spondylosis, chronic neck pain and foot pain. Notes from an [REDACTED], 2019 encounter date show that Petitioner reported lower extremity weakness and numbness, as well as stiffness of the lower back. She reported that bending, carrying, climbing stairs, changing body position, driving, getting out of bed, going from sitting to standing, lumbar extension, lifting, and transferring from sitting to standing are all aggravating factors. During the assessment, Petitioner reported arm pain on exertion and shortness of breath when walking. Musculoskeletal examination showed cervical spine range of motion within normal limits except for right lateral flexion which is limited due to pain, and rotation which is limited due to pain, tenderness to palpation was noted over the paraspinal muscles on the right side overlying the facet joints. Spurling's sign was positive to the right. The examination showed tenderness to palpation over the SI joint on the right side of the lumbar spine and range of motion was within normal limits except for extension which was limited. Patrick's sign was positive on the right. Petitioner was diagnosed with sacroiliitis secondary to inflammation as a result of osteoarthritis. She was prescribed pain medication and was to have a right SI injection. During a [REDACTED], 2019 appointment, Petitioner reported muscle aches and back pain. Range of motion limitations were as noted above, however, Petitioner also was noted to have limited ability to bend on the left side. Encounter Notes from visits in [REDACTED] 2019 and [REDACTED] 2019 had similar findings. (Exhibit A, pp.131 – 163).

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

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's

impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 1.02 (Major dysfunction of a joint(s) (due to any cause)), 1.04 (disorders of the spine), and 1.07 (fracture of an upper extremity) were considered. A thorough review of 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).

In this case, Petitioner alleges exertional and nonexertional limitations due to her impairments. Petitioner testified that she suffers from degenerative disc disease of her neck and back and she has additional problems with her right shoulder and right knee due to osteoarthritis. She testified that she has received steroid infusion injections in her neck and lower back for treatment and that she participated in physical therapy for her neck and back in 2017 and currently for her shoulder. Petitioner testified that she suffers from arthritis and has heel spurs and as a result can only walk for 15 minutes. She reported that she does not use a walking aid to assist with ambulation. Petitioner reported that she can stand for no more than five minutes because of her heel and knee pain. She is able to sit for only 20 minutes, then needs to adjust positions due to shooting pain in her lower back. It was reported that during the hearing, she repositioned herself 4 to 5 times in a 30-minute period. Petitioner testified she is unable to squat and can only bend if she is holding on to something for assistance. She further reported that she is able to lift no more than a gallon of milk. Petitioner stated that she is able to bathe/shower herself but requires assistance washing her hair. Petitioner testified that she could dress herself but requires assistance with putting on shirts overhead and bending to put her pants on. She reported that she does minor household chores including dusting with her left hand but performs no heavy cleaning in the home. She testified that she is able to prepare microwavable meals. Petitioner stated that she lives with her daughter and grandson who assist with household tasks and shopping, as Petitioner is unable to lift bags of groceries. Petitioner testified that while she does not have problems gripping or grasping items with her hands, she suffers from osteoarthritis and lifting overhead and reaching with her arms is difficult due to the shoulder pain.

Petitioner stated that she attends physical therapy three times weekly and will require surgery for a total reconstruction of her shoulder.

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

The evidence presented is considered to determine the consistency of Petitioner's statements regarding the intensity, persistence and limiting effects of his symptoms. Based on a thorough review of Petitioner's medical record and in consideration of the reports and records presented from Petitioner's treating physicians, including the MRI results documenting her spine and shoulder impairments, 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).

Petitioner has additional nonexertional limitations with respect to performing manipulative and postural functions of some work such as reaching, stooping, climbing, crawling, or crouching. Based on the medical evidence presented, as well as Petitioner's testimony, it is found that Petitioner has moderate limitations on her nonexertional 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).

Petitioner's work history in the 15 years prior to the application consists of work as a crib attendant pulling parts/labor in a manufacturing factory and as a shipping/receiving clerk. Upon review, Petitioner's past employment is characterized as requiring light to medium exertion. Based on the RFC analysis above, Petitioner's exertional RFC limits her to sedentary work activities. As such, Petitioner is incapable of performing past

relevant work. Because Petitioner is unable to perform past relevant work, she 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).

However, 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 51 years old at the time of application and at the time of hearing, and thus, considered to be closely approaching advanced age (age 50 to 54) for purposes of Appendix 2. She completed high school and some college and has unskilled to semi-skilled work history that is nontransferable. 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, with the noted additional nonexertional limitations. Thus, based solely on her exertional RFC, the Medical-Vocational Guidelines result in a disability finding based on Petitioner's exertional limitations and an analysis of the additional nonexertional limitations will not be addressed. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

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.

DECISION AND ORDER

Accordingly, the Department's SDA 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], 2019 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; and
3. Review Petitioner's continued SDA eligibility in [REDACTED] 2020.



ZB/tm

Zainab A. Baydoun
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

Brenda Buhl
1505 Suncrest Drive
Lapeer, MI
48846

Petitioner

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

cc: SDA: L. Karadsheh
AP Specialist Lapeer County (2)