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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 5, 2019
MAHS Docket No.: 18-012587
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 January 14, 2019 from Detroit, Michigan. Petitioner appeared on behalf of herself. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Edibility Specialist.

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 August 29, 2018, Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On October 29, 2018, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 4-10).
3. On November 1, 2018, the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability (Exhibit A, pp. 502-507).
4. On November 21, 2018, the Department received Petitioner's timely written request for hearing (Exhibit A, p. 2).

5. Petitioner alleged disabling impairment due to osteoarthritis, COPD; diabetes; hypertension, asthma, schizophrenia; anxiety; PTSD and knee pain.
6. On the date of the hearing, Petitioner was [REDACTED] years old with a [REDACTED] birth date; she is [REDACTED] in height and weighs about [REDACTED] pounds.
7. Petitioner obtained her GED.
8. At the time of application, Petitioner was not employed.
9. Petitioner has an employment history of work as cashier and bell ringer.
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 was reviewed and is summarized below.

On September 13, 2017, Petitioner was seen for her annual psychiatric evaluation. Petitioner reported being shot five times with an AK-47. Petitioner reported that she still has nightmares regarding the incident and other traumatic experiences. Petitioner indicated that her father passed away in 2008 and that she has had increased depression since that time. Petitioner was diagnosed with schizoaffective disorder. (Exhibit A, pp. 310-313).

On October 26, 2017, Petitioner presented with back pain. It was noted that Petitioner has a history of schizophrenia, depression, and anxiety. It was further noted that Petitioner was treating with a psychiatrist and was prescribed Prozac. At the time of the interview it was noted that Petitioner had no depression, anxiety, sleep disturbance or substance abuse. Petitioner's opioid risk assessment score was noted as a moderate risk. (Exhibit A, pp. 489-493).

On November 13, 2017, Petitioner was seen for routine evaluation. It was noted that Petitioner did not have any emergency room or urgent care business recently. Petitioner's lungs were clear. Petitioner's range of motion was intact. Petitioner had no joint erythema or tenderness. Petitioner's gait was normal. Examination of the spine revealed normal gait and posture, no spinal deformity, and symmetry of spinal muscles without tenderness. Petitioner's mental examination reveal that she was oriented to person place and time. Petitioner was able to demonstrate good judgment and reason without hallucinations. (Exhibit A, pp. 425-426).

On October 5, 2017, Petitioner was seen for routine evaluation. Petitioner was complaining of left knee pain; shortness of breath; cough; and fatigue. The diagnosis addressed in this visit included bilateral knee degenerative joint disease; degenerative disc disease lumbar spine; COPD; post gunshot wound to the face; moderate persistent asthma; diabetes; and high blood pressure. It was noted that Petitioner's functional assessment deems her unable to work due to her diagnosis. (Exhibit A, pp. 427-428).

On March 24, 2018, [REDACTED] authored a letter indicating that Petitioner was seen in the office and was diagnosed with asthma, chronic obstructive pulmonary disease, and hypertension. Petitioner has been prescribed a nebulizer in a seam monthly for follow-up visits. (Exhibit A, p. 165).

On June 23, 2018, [REDACTED] authored a letter indicating that Petitioner had been seen in the office for COPD, diabetes type II, DJD bilateral knees, hypertension, sleep apnea, and severe asthma. Petitioner was also treating with a therapist. [REDACTED] opined that she was unable to work due to her diagnoses. (Exhibit A, p. 167).

On June 25, 2018, staff at [REDACTED] authored a letter indicating that Petitioner had been treating there since March 17, 2017 to manage schizoaffective disorder. The letter indicated that Petitioner's presenting symptoms included depression, sadness, loss of interest, hopelessness, low energy, crying spells, PTSD, racing thoughts, and problems sleeping. Petitioner attends monthly psychiatric, therapy, nursing, and peer support case management services. (Exhibit A, p. 166).

On September 25, 2018, Petitioner was seen for a psychiatric evaluation. Petitioner was noted to be in touch with reality and not responding to internal stimuli. Petitioner self-esteem was noted as average. Petitioner's cycle motor activity was normal. Petitioner's insight was limited. Petitioner's thought process was slow, and her speech was somewhat vague. Petitioner admitted to auditory hallucinations and to being paranoid. Petitioner denied visual hallucinations or any symptoms of psychosis. Petitioner had no suicidal or homicidal ideation. (Exhibit A, pp. 177-179).

On September 25, 2018, Petitioner underwent imaging of the lumbosacral spine. The impression included degenerative changes involving the medial compartment without evidence of acute fracture or dislocation deformity identified. (Exhibit A, p. 363).

Medical record with facsimile date of September 26, 2018 but otherwise undated. Petitioner was seen by [REDACTED] Petitioner reported that she has had aches and pains in her lower back for a long time. She further reported that the symptoms have been more constant and fairly severe, aggravated by most activities, particularly after prolonged standing, walking, or sitting. Petitioner had not received physical therapy nor epidural blocks. Petitioner began smoking at a 16 and used to smoke two packs of cigarettes per day. Recently she has cut down to one half pack of cigarettes per day. Petitioner reported that she had a mental breakdown in 2009 when her father passed away. Petitioner continues to be depressed. Petitioner's lungs were noted is clear. Petitioner was able to perform fine and gross manipulation. There were

no gross deformities on Petitioner's knee joints but there was minimal swelling. Petitioner's gait was moderately guarded, but she did not use any ambulatory A's. Petitioner's tendon reflexes were sluggish bilaterally. There was mild weakness and mild decrease on pinprick and vibratory sensation on the left lower limb. Petitioner was diagnosed with degenerative disc disease of cervical spine; degenerative disc disease of the lumbar spine with mild left sided radiculopathy; degenerative joint disease on both knees; chronic bronchitis; and mental issues. Taking into account her clinical history and current objective findings, it was determined that Petitioner's ability to perform work related activities was at least moderately impaired. (Exhibit A, pp. 344-346).

On October 2, 2018, Petitioner was seen for her annual psychiatric evaluation. Petitioner presented with complaints of depression, lability of mood, crying spells, PTSD, difficulty with sleep, and racing thoughts. Petitioner was shot five times with an AK-47 in 1994. Petitioner denied hospitalization or crisis intervention. Petitioner also denied homicidal and suicidal ideation. Petitioner lives alone. Petitioner's GAF score was 52. (Exhibit A, pp. 184-187).

On October 20, 2018, Petitioner was seen at [REDACTED] with complaints of COPD, knee pain, wrist pain, and a history of gunshot. Petitioner has smoked for 25 years and continues to smoke. Petitioner uses two inhalers and complains daily of shortness of breath with minimal activity. The assessment included that Petitioner's COPD and joint pain, including knees and wrists likely causes mild to moderate functional impairment, specifically the strenuous activities like going up the stairs or heavy lifting may be limited secondary to Petitioner shortness of breath and knee pain. The assessment indicated that further imaging of the joints may be beneficial. (Exhibit A, pp. 172-175).

Petitioner requested that correspondence from her treating physician be admitted into evidence. The Department did not object to the correspondence being admitted into evidence as Petitioner's Exhibit 1. The Department agreed to send the correspondence by facsimile; however, the correspondence was not received by the hearing office. The Department read the pertinent parts of the letter into the record. As read by the Department, the letter dated December 5, 2018, stated as follows:

Patient is also totally unable to work. She is currently eligible for bilateral total knee replacement and has been referred to orthopedics. If you have any questions or concerns, please contact us at the number provided above or by fax.

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 1.01 (Category of Impairments, Musculoskeletal); 12.03 (Schizophrenia spectrum and other psychotic disorders); 12.04 (Depressive, bipolar, and related disorders) 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). For the first three functional areas, 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 needs assistance with dressing and undressing herself; bathing herself; using the bathroom and completing chores. Further, Petitioner testified that because of severe pain, she is unable to squat; bend at the waist; stand for more than three minutes; walk; sit for extended periods of time; kneel or climb stairs. Petitioner also testified that she is unable to remember or concentrate. Petitioner testified that she is unable to follow instructions because she

becomes confrontational and feels as if she is being attacked. Petitioner indicated that she does not work well with others as she shuts down and will not communicate with others.

In October 2017 and June 2018, a physician opined that Petitioner was unable to work due to her diagnoses. Petitioner was shot five times in her face in 1994. Petitioner reports in multiple medical visits that she still has nightmares regarding the incident. Petitioner has been diagnosed with schizophrenia, depression and anxiety and is currently treating with a psychiatrist. Petitioner testified that she in the process of obtaining a date to have knee surgery. Petitioner further indicated that her pain was unbearable. Petitioner's testimony regarding her limitations was supported by the Department's observations at the hearing which included that Petitioner has braces on both knees and uses a cane; she has difficulty walking; and that her writing is essentially illegible. The evidence in this case demonstrated that Petitioner is currently unable to engage in prolonged, walking or sitting and is unable to write legibly. Petitioner also suffers from chronic breathing issues.

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(b). Based on the medical record presented, as well as Petitioner's testimony, Petitioner has mild to moderate 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).

Petitioner has not worked since approximately 2009. Prior to the cessation of work, Petitioner worked as a cashier and bell ringer. Both positions required Petitioner to stand for eight hours per day; 40 hours per week. Petitioner's past work required light physical exertion.

Based on the RFC analysis above, Petitioner's exertional RFC limits her to no more than sedentary work activities. As such, Petitioner is incapable of performing past relevant work. Petitioner also has mild to moderate limitations in her mental capacity to perform basic work activities.

Although Petitioner is unable to perform past relevant work, Petitioner cannot be found disabled, or not disabled, at Step 4, as an assessment must be made to determine whether Petitioner can adjust to other work. As such, 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, 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 closely approaching advanced age (age 50-54) for purposes of Appendix 2. Petitioner began the ■ grade but did not complete through graduation. Petitioner obtained her GED. 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.

In this case, the Medical-Vocational Guidelines result in a disability finding based on Petitioner's exertional limitations. 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.

DECISION AND ORDER

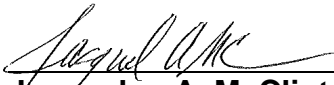
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner **disabled** for purposes of the SDA benefit program.

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 August 29, 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 August 2019.

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

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

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

Via Email:

[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]