[redacted]

Date Mailed: May 17, 2019
MOAHR Docket No.: 19-002865
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 April 18, 2019, from Detroit, Michigan. Petitioner represented himself. [redacted], Petitioner's friend also appeared at the hearing. Participants on behalf of the Department of Human Services (Department) included Heather Klever, Family Independence Manager.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [redacted], 2018, Petitioner submitted an application seeking cash assistance on the basis of a disability.

2. On February 26, 2018, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 17-23).

3. On March 13, 2019, the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability (Exhibit A, pp. 78-81).

4. On March 14, 2019, the Department received Petitioner's timely written request for hearing (Exhibit A, pp. 82-83).

5. Petitioner alleged disabling impairment due to degenerative disc disease, lumbar spine stenosis; thoracis spinal stenosis; and back, leg and feet numbness.

6. On the date of the hearing, Petitioner was [redacted] years old with an [redacted], 1961 birth date; he is 5”10 in height and weighs about 265 pounds.

7. Petitioner completed his education through the 11th grade.

8. At the time of application, Petitioner was not employed.

9. Petitioner has an employment history of work as skiver and block mason.

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**,** he is not ineligible under Step 1, and the analysis continues to Step 2.

Step Two

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have

more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the de minimis standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education and experience. *Higgs v Bowen, 880 F2d 860, 862-863 (CA 6, 1988), citing Farris v Sec of Health and Human Services, 773 F2d 85, 90 n.1 (CA 6, 1985).* A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.; SSR 96-3p.*

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

On March 10, 2018, Petitioner was seen at [redacted]. It was noted that Petitioner was admitted to the emergency room at [redacted] on the same day. Petitioner's chief complaint was leg numbness and trouble ambulating. Petitioner indicated that he did not take his blood pressure medication because it causes headaches. Petitioner was noted to have a shuffling gait. Petitioner's lab results were normal. Petitioner was diagnosed with chronic bilateral low back pain. Petitioner had a CT of the lumbar spine. The findings revealed no acute fracture or aggressive intraosseous lesion. Degenerative findings are grossly similar to the prior study from March 21, 2016. There was again severe facet arthrosis at which produces a grade 1 anterolisthesis. There was effacement of the subarticular zones with potential L5 nerve root impingement. There was at least moderate stenosis of the neural foramina bilaterally at this level. Transitional lumbosacral anatomy with right sacralization of L5. (Exhibit A, pp. 499-519).

On June 6, 2018, Petitioner had a CT of the lumbar spine without contrast. The findings included transitional lumbosacral anatomy, with a partially sacralized L5 vertebral body. For nominating purposes on this exam, the L5-S1 disc space was intersected by series to image 120. There was mild lumbar scoliosis. There was minimum degenerative anterolisthesis at the L4-L5 level due to severe bilateral facet hypertrophy. There was mild spinal canal stenosis at the T12-L level and moderate spinal canal stenosis at the L1-L2, L2-L3, L3-L4 and L4-L5 levels. There was moderate right neural foraminal stenosis at the T12-L1, L1-L2, and L3-L4 levels. There was moderate left neural foraminal stenosis at the T2-L1 and L3-L4 levels. (Exhibit A, pp. 520-524).

On June 13, 2018, Petitioner had an MRI of the lumbar spine. The impression included congenital lumbar canal narrowing with prominent epidural lipomatosis and superimposed degenerative disc disease and facet arthropathy resulting in moderate to severe central neural foraminal narrowing at L2-L3 and L3-L4. Moderate left neural foraminal narrowing at L2-L3 and L3-L4. (Exhibit A, pp. 528-529).

On June 28, 2018, Petitioner was seen at [redacted] for a hospital follow up visit. Petitioner had been seen in the office on June 21, 2018. Petitioner was found to have a heart rate in the 150s and was advised to go to the hospital, but Petitioner refused. During the June 28, 2018 visit, Petitioner's blood pressure was controlled. His symptoms of back pain remained largely unchanged, but it was noted that Petitioner felt well. Anxiety was noted as a new problem. Petitioner was noted to become anxious about his health. Petitioner denied depression, suicidal or homicidal ideations. (Exhibit A, pp. 268-283).

On October 17, 2018, Petitioner was seen at [redacted] for consultation. Petitioner underwent a planned T7 – T10 laminectomy for progressive ambulatory difficulty signs of myelopathy with thoracic spinal canal stenosis. Petitioner had normal muscle tone. The results were negative for Hoffman and ankle clonus. Petitioner was discharged on October 19, 2018. (Exhibit A, pp. 383-414).

On October 19, 2018, Petitioner was admitted to [redacted] for a planned procedure of thoracic laminectomy for decompression. Petitioner was found to have thoracic spondylosis with spinal canal compression r/t ventral thoracic disc bulges and calcifications. Petitioner did well post-op and reported improvement in LE sensation. Petitioner was discharged on October 25, 2018. (Exhibit A, pp. 415-478).

On October 29, 2018, Petitioner was seen at [redacted] for a hospital follow up. Petitioner underwent posterior thoracic 7-10 laminectomy decompression for thoracic spinal stenosis on October 17, 2018. Petitioner reported that his bilateral lower extremity numbness has improved but it is still present in his feet and legs. Petitioner indicated that his back was sore but that he was not in pain. Petitioner stated that exertion worsens his symptoms. (Exhibit A, pp. 284-298).

On November 28, 2018, Petitioner was seen for a consultative exam. Petitioner arrived to the exam in a wheelchair and was unable to walk. Petitioner indicated that he uses a walker around the house. Petitioner indicated that his legs were very heavy and that he was unstable and uses a wheelchair outside of the house. Petitioner indicated that he had resulting numbness from his thoracic surgery and tingling to the bilateral lower extremities as well as his feet which prevent him from ambulating far distances. Petitioner also had an ablation therapy procedure in June 2018 prior to the thoracic surgery. Petitioner's lungs were clear there was no call for wheezing on exam. Reflexes were symmetric at 2/4. Sensation was decreased to the lower extremities worsening distally to proximally. No atrophy of the musculature was seen and there was no fasciculations or fibrillations. SLR did not elicit pain in both seated and supine positions. Hoffmann and Tromner signs were negative. Petitioner could sit and stand but standing

was very limited. Petitioner had a wide base stance that was very unsteady. Petitioner could not bend while standing. Petitioner indicated he can dress and undress himself without assistance. Petitioner also stated that he can carry, push, and poor only the walker. Petitioner could not get on and off the exam table, squat, arise from squatting position, climb stairs, walk on heels, toes or in tandem. Petitioner had a slow shuffling gait when pivoting from chair to wheelchair. (Exhibit A, pp. 481-485).

On December 13, 2018, Petitioner was seen at [redacted] for an MRI of the lumbar spine. The impression included findings were those of multiple levels spinal canal stenosis and neural foraminal narrowing. It was noted that the findings had not greatly changed from the June 13, 2018 MRI. The final diagnosis was spinal stenosis, other spondylosis with myelopathy, thoracic region. Spinal stenosis, thoracic region. Spinal stenosis, lumbar regions without neurogenic claudication. Petitioner also had an MRI of the thoracic spine. The findings included spinal cord compression seen at multiple levels on a prior study has been relieved. The impression indicated decompressive laminectomy from the T7-8 this level through the T10-11 this level since the prior study. Spinal cord compression seen on the prior study has been relieved. There was still abnormal signal in the spinal cord at the level of T9-10 and this demonstrated enhancement with IV contrast. It was noted that this presumably represented focal myelomalacia which was also present on the prior study. (Exhibit A, pp. 181-190).

On April 1, 2019, Petitioner was seen at [redacted] for rehabilitation therapy. The diagnoses included: degenerative disc disease and lumbar spine stenosis. It was noted that Petitioner requires a wheeled walker due to balance instability and that Petitioner would require unscheduled breaks approximately every two hours if sitting and every 5-10 minutes if standing. The Medical Source Statement also indicated that muscle weakness and pain were the reasons for the unscheduled break requirement. It was further noted that Petitioner was a fall risk. (Exhibit 1, pp. 1-20).

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 1.04 (spine disorders) and 3.02 (chronic respiratory 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 his medical condition. Petitioner testified that he could dress/undress himself; bathe/shower himself; use the bathroom unassisted; prepare microwavable meals; bend at his waist; reach and use his hands. Petitioner testified that he could not stand for more than two to three minutes without assistance; he could not walk without assistance; he could not sit for more than 15 minutes without experiencing numbness; and could not climb stairs because he does not have control of his legs.

The medical evidence in this case revealed that Petitioner has had a lengthy history of back issues to include surgery. Petitioner was found to have thoracic spondylosis with spinal canal compression r/t ventral thoracic disc bulges and calcifications. Petitioner appeared for his November 2018 consultative exam in a wheelchair. Petitioner's testimony was consistent with the observations made at the November 2018 consultative examination which indicated that he could not bend while standing; could not get on and off the exam table, squat, arise from squatting position, climb stairs, walk on heels, toes or in tandem. The consultative exam also noted that Petitioner had a slow shuffling gait when pivoting from chair to wheelchair. At the consultative

examination, Petitioner could sit and stand but standing was very limited. Petitioner had a wide base stance that was very unsteady. Petitioner could not bend while standing.

The December 2018 MRI of the lumbar spine resulted in a continued finding of spinal stenosis. Further, Petitioner's MRI of the thoracic spine revealed that there was still abnormal signal in the spinal cord at the level of T9-10. Additionally, the April 2019 Medical Source Statement noted that Petitioner had pain and weakness; would need many unscheduled breaks and had balance instability.

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). 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 skiver and a block mason. Petitioner's work as a skiver, which required prolonged standing for eight hours per day with some pushing and pulling. This employment required light physical exertion. Based on the RFC analysis above, Petitioner's exertional RFC limits him to no more than sedentary work activities. As such, Petitioner is incapable of performing past relevant work. Although Petitioner is unable to perform past relevant work, Petitioner cannot be found disabled, or not disabled, at Step 4, and as the assessment is required to continue to Step 5 to determine whether Petitioner can adjust to other work.

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).

In this case, Petitioner was 58 years old at the time of application and 58 years old at the time of hearing, and, thus, considered to be advanced age (age 55 and over) for purposes of Appendix 2. He completed his education through the 11th grade. Petitioner has a with a history of work experience as a skiver and block mason. 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.

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 [redacted], 2018 SDA application to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;

2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified;

3. Review Petitioner's continued eligibility in December 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 Office of Administrative Hearings and Rules (MOAHR).

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

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

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

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

Via Email:

MDHHS-Mecosta-Hearings
BSC3 Hearing Decisions
Policy-FIP-RAP-SDA
MOAHR

Petitioner – Via First-Class Mail:

[redacted]