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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: October 17, 2019
MOAHR Docket No.: 19-007604
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 21, 2019, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Eligibility Specialist, Karen King. Ms. King testified on behalf of the Department. The Department submitted 81 exhibits which were admitted into evidence.

On August 22, 2019, an Interim Order Extending the Record was issued giving the Department an additional 30 days to obtain medical records from Petitioner's neurologist. As a result of the Interim Order, the Department submitted an additional 213 exhibits which were admitted into evidence for a total of 294 exhibits.

ISSUE

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

FINDINGS OF FACT

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

1. On [REDACTED], 2019, Petitioner applied for SDA. [Dept. Exh. 7-18].
2. On June 26, 2019, the Medical Review Team denied Petitioner's SDA application indicating she was capable of performing other work. [Dept. Exh. 26-32].

3. On July 1, 2019, the Department issued a Notice of Case Action informing Petitioner her application for SDA had been denied effective March 16, 2019 ongoing. [Dept. Exh. 77-81].
4. On July 16, 2019, Petitioner submitted a Request for Hearing contesting the denial of SDA. [Dept. Exh. 4-5].
5. Petitioner has a history of post-traumatic stress disorder (PTSD), bipolar disorder, borderline personality disorder, anxiety, herniated cervical disc at C6-C7, epilepsy, fibromyalgia, cervicalgia, osteoarthritis of the cervical spine, other spondylosis in the cervical region, radiculopathy, right-sided numbness, muscle spasms of the back, ganglion left wrist, synovitis left wrist, hypothyroidism, obesity, elevated liver enzymes, hyperlipidemia, gastric reflux disease, and two suicide attempts.
6. On January 16, 2019, Petitioner's MRI cervical spine results showed a broad-based disc protrusion at C5-C6 and a reversal of normal lordotic curvature which could be related to muscle spasm. [Dept. Exh. 138].
7. On February 4, 2019, Petitioner underwent an assessment at North Country Community Mental Health (NCCMH). Petitioner was unemployed and reported that she was being told by the Department of Health and Human Services that she might have to work 20 hours per week to continue receiving her benefits. She was being followed by psychiatry for medications and had recently been denied social security disability. Petitioner was diagnosed with Bipolar II, Anxiety, Alcohol Use Disorder and Borderline Personality Disorder. It was noted that prior to her psychiatric hospitalization at [REDACTED], she drank alcohol daily. At that time, she would abuse her prescription medications, opiates and benzodiazepines. She stated that she had not abused her medications since she got out of the hospital on August 31, 2016. The assessor noted that she still had a glass of wine, or two, with her dinner. Petitioner also reported that in the early 2000's and again in 2006, she overdosed on prescription pills as well as aspirin and vodka. Both attempts resulted in her being admitted to [REDACTED] in Alpena. [Dept. Exh. 198-210].
8. On February 28, 2019, Petitioner met with her neurologist for neck pain. Petitioner reported she was in a car accident in 2015 and that she was in a neck brace for six months due to her neck injury. She reported she healed well. Petitioner indicated that for the past year she noticed a gradual onset of right-sided facial numbness. She also described low back pain and long-standing stress incontinence. Petitioner had an MRI of the cervical spine which showed loss of cervical lordosis with very minimal disc bulges not causing any central or neuroforaminal encroachment. The MRE of the brain with and without contrast was unremarkable. She was assessed with osteoarthritis of the cervical spine, paresthesias, seizures, right sided numbness, stress incontinence, neck pain, and right-sided numbness involving the face with a history of seizures. [Dept. Exh. 116-118, 137].
9. On April 22, 2019, Petitioner followed up with her primary care physician after seeing her urologist. Petitioner reported she had completed a physical therapy

program and had decreased neck pain and increased cervical range of motion with therapy. The results of the EMG were reviewed and revealed normal right upper and right lower extremity EMG. There was mild swelling across the right elbow/cubital tunnel which likely explained her right upper extremity symptoms, although she did not meet the full electrodiagnostic criteria for ulnar neuropathy. The EMG was without evidence of right cervical radiculopathy, brachial plexopathy or of the right neuropathy or right lumbosacral radiculopathy. Petitioner reported that she was seen by urology for complaint of stress incontinence and was scheduled to undergo a bladder sling. [Dept. Exh. 114-115].

10. On April 28, 2019, Petitioner presented to her psychologist and reported a depressed and anxious mood, difficulty concentrating, low energy and motivation, tearfulness, feelings of hopelessness, low self-esteem, anhedonia, disrupted sleep and appetite, and urges to isolate. She also reported symptoms of PTSD including frequent and distressing intrusive thoughts and memories, fearfulness, hypervigilance, exaggerated startle response, panic symptoms and attacks, social anxiety and avoidance. Petitioner was on time for her appointment. She was alert and fully oriented. She appeared anxious and her affect was appropriate. She had good eye contact and sustained attention throughout the session. There was no evidence of impairment in reality testing. She was cordial, cooperative and forthcoming throughout the session. Petitioner reported previous suicidal ideation and plan, with two attempts at overdosing on pills three times, the last being four years ago. She reported five psychiatric hospital admissions. Petitioner indicated also has a history of a head injury after she was in a car accident in 2015 where she broke her neck. [Dept. Exh. 102-104].
11. On May 6, 2019, Petitioner underwent a medication review at [REDACTED]. The psychiatrist noted that Petitioner had a history of severe substance abuse, particularly alcohol, and intense unstable relationships with many altercations leading to inpatient admissions. She continued to use alcohol. Prior to going to [REDACTED], the psychiatrist indicated that Petitioner gained a large amount of weight, probably secondary to Zyprexa, but it was also likely that she was using food as a more benign form of alcohol. Petitioner met the criteria for Bipolar II Disorder, Anxiety Disorder and Borderline Personality Disorder. Sedative, hypnotic or anxiolytic use disorder and opioid use disorder were in remission. [Dept. Exh. 175-185].
12. On May 20, 2019, Petitioner presented for her initial evaluation for neck pain at the [REDACTED]. Petitioner reported she was able to sit for hours, stand 15 minutes, lift/push/pull between 10 and 15 pounds. She was able to bathe herself, but required assistance with cleaning the house, cooking and dressing. Petitioner reported that she is unable to drive, vacuum or do the laundry. On examination, Petitioner's range of motion had a 25% limitation to extension, a 25% limitation to the right and left side bending. She complained of discomfort and stiffness with rotation. Petitioner had moderate tenderness throughout the cervical spine in addition to bilateral, moderate tenderness throughout paraspinal

palpitation. She was also noted to have tight hamstrings with limited hip flexion and limited range of motion and pain in both hips. [Dept. Exh. 165-169].

13. On August 5, 2019, Petitioner saw her neurologist complaining of numbness and tingling in her right leg and right arm. She also had right-sided neck pain on shoulder abduction greater than 90 degrees. She reported intermittent numbness and tingling in her left foot, as well as weakness in both wrists and hands which interfered with her ability to lift heavy objects. Petitioner was assessed with generalized convulsive epilepsy, numbness and neck pain. The neurologist noted that Petitioner presented with a history of convulsive epilepsy since the age of 19 or 20 but that she had unusual aura symptoms that sounded more psychiatric than neurological in nature. Petitioner reported that her last seizure was about three years ago. [Dept. Exh. 83-85].
14. On August 20, 2019, Petitioner presented to the [REDACTED] clinic. Petitioner reported neck, upper back and left knee pain. She indicated that the shoulder blade area pain had gone away since the injections and the neck pain had improved. Petitioner was assessed with cervicgia and muscle spasms of the back. She underwent a cervical medial branch nerve block. [Dept. Exh. 90-92].
15. Petitioner is a 38-year-old woman whose birthday is April 2, 1981. She is 5'7" and weighs 220 pounds. She last worked in November 2015 as a beauty consultant. She completed the eleventh grade and has some college education.
16. Petitioner was appealing the denial of Social Security disability benefits at the time of the hearing. [Dept. Exh. 68-73].

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. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

A person is disabled for SDA purposes if he or she:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability. BEM 261, pp 1-2 (7/1/2014).

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months (90 days for SDA). 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to establish it 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 ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. 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, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (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).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, 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). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability. 20 CFR 416.927(e).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Petitioner is not involved in substantial gainful activity and testified that she has not worked since November 2015. Therefore, she is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and
6. Dealing with changes in a routine work setting. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a petitioner's age, education, or work experience, the impairment would not affect the petitioner's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Petitioner alleges disability due to post-traumatic stress disorder (PTSD), bipolar disorder, borderline personality disorder, anxiety, herniated cervical disc at C6-C7, epilepsy, fibromyalgia, cervicgia, osteoarthritis of the cervical spine, other spondylosis in the cervical region, radiculopathy, right-sided numbness, muscle spasms of the back, ganglion left wrist, synovitis left wrist, hypothyroidism, obesity, elevated liver enzymes, hyperlipidemia, gastric reflux disease, and two suicide attempts.

As previously noted, Petitioner bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Petitioner has presented some medical evidence establishing that she does have some mental and physical limitations on her ability to perform basic work activities. The medical evidence has established that Petitioner has an impairment, or combination thereof, that has more than a *de minimis* effect on Petitioner's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Petitioner is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Petitioner has alleged post-traumatic stress disorder (PTSD), bipolar disorder, borderline personality disorder, anxiety, herniated cervical disc at C6-C7, epilepsy, fibromyalgia, cervicgia, osteoarthritis of the cervical spine, other spondylosis in the cervical region, radiculopathy, right-sided numbness, muscle spasms of the back, ganglion left wrist, synovitis left wrist, hypothyroidism, obesity, elevated liver enzymes, hyperlipidemia, gastric reflux disease, and two suicide attempts.

Petitioner has the burden of establishing her disability. The record evidence was insufficient to meet a listing. Therefore, the analysis continues to Step 4.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the petitioner's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the Petitioner's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Based on the record evidence, Petitioner has the residual functional capacity to perform light work as defined in 20 CFR 404.1567(b). In making this finding, the Administrative Law Judge considered all Petitioner's symptoms and the extent to which these symptoms can reasonably be accepted as consistent with the objective medical evidence and other evidence.

Petitioner testified that she has PTSD, bipolar disorder, depression, anxiety, a herniated disk at C6-C7, epilepsy and a bladder sling. She stated that she is unable to drive due to her seizures, but now no longer drives due to her PTSD from a car accident. Petitioner reported she is unable able to lift heavy pans or anything over her head. She stated that she cannot vacuum. She indicated that she does not grocery shop due to her anxiety in big crowds. Petitioner can walk 100 feet, stand for 15 minutes, sit for half an hour but has pain in her right shoulder blade and can lift up to eight gallons.

The record evidence indicated that Petitioner had an MRI of the cervical spine which showed loss of cervical lordosis with very minimal disc bulges which were

causing any central or neuroforaminal encroachment. Further, the MRI of the brain was unremarkable.

Petitioner reported she had completed a physical therapy program and had decreased neck pain and increased cervical range of motion with therapy. The results of the EMG were reviewed and revealed normal right upper and right lower extremity EMG. There was mild swelling across the right elbow/cubital tunnel which likely explained her right upper extremity symptoms, although she did not meet the full electrodiagnostic criteria for ulnar neuropathy. Further, the EMG showed no evidence of right cervical radiculopathy, brachial plexopathy or of the right neuropathy or right lumbosacral radiculopathy.

In May 2019, Petitioner's psychiatrist noted that Petitioner has a history of severe substance abuse, particularly alcohol, and intense unstable relationships with many altercations leading to inpatient admissions, but that she continues to use alcohol.

During Petitioner's initial evaluation at the Michigan Spine and Pain clinic, Petitioner reported she was able to sit for hours, stand 15 minutes, lift/push/pull between 10 and 15 pounds. She was able to bathe herself, but required assistance to clean the house, cook and dress. Petitioner also reported that she was unable to drive due to her PTSD from a car accident.

Petitioner testified during the hearing in the above-captioned matter that she was unable to drive due to her seizures and PTSD. Petitioner's last seizure was over three years ago. Petitioner also testified that she is unable to lift anything over her head to include heavy pans. Petitioner reported to her neurologist in August 2019, that she no longer had shoulder blade pain and since receiving the injections, her neck pain had decreased.

After considering the evidence of record, the Administrative Law Judge finds that Petitioner's medically determinable impairments could reasonably be expected to produce the alleged symptoms, and that the Petitioner's statements concerning the intensity, persistence and limiting effects of these symptoms are partially credible.

Next, the Administrative Law Judge must determine at step four whether the petitioner has the residual functional capacity to perform the requirements of her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the petitioner actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the petitioner to learn to do the job and have been substantial gainful activity (SGA). (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the petitioner has the residual functional capacity to do her past relevant work, the petitioner is not disabled. If the petitioner is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

Petitioner's past relevant employment was as a beauty consultant. The demands of the Petitioner's past relevant work do not exceed the residual functional capacity. As a result, Petitioner is not disabled. Even though Petitioner has been found not disabled at Step 4, the analysis will continue to Step 5.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the Petitioner is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the Petitioner is able to do other work, he/she is not disabled. If the Petitioner is not able to do other work and meets the duration requirements, he/she is disabled.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967. 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. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 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 this 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. If someone can do medium work, we determine that he or she can also do sedentary and light work. 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. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, the burden of proof shifts to the Department to establish that Petitioner does have residual function capacity. The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated. See discussion at Step 2 above.

In this case, Petitioner alleged a history of post-traumatic stress disorder (PTSD), bipolar disorder, borderline personality disorder, anxiety, herniated cervical disc at C6-C7, epilepsy, fibromyalgia, cervicgia, osteoarthritis of the cervical spine, other spondylosis in the cervical region, radiculopathy, right-sided numbness, muscle spasms of the back, ganglion left wrist, synovitis left wrist, hypothyroidism, obesity, elevated liver enzymes, hyperlipidemia, gastric reflux disease, and two suicide attempts.

As indicated above, there is no evidence indicating that Petitioner is unable to work, or that Petitioner has any work restrictions.

Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does establish that Petitioner has the residual functional capacity to perform other work. Petitioner is also disqualified from receiving disability at Step 5 based upon the fact that she has not established by objective medical evidence that she cannot perform light work. Under the Medical-Vocational guidelines, an individual aged 18 – 44 (Petitioner is 38 years of age), with an eleventh-grade education and an unskilled or limited work history who can perform even only light work is not considered disabled pursuant to Medical-Vocational Rule 202.17.

Petitioner has not presented the required competent, material, and substantial evidence which would support a finding that she has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Petitioner has cited medical problems, the clinical documentation submitted by Petitioner is insufficient to establish a finding that Petitioner is disabled. There is no objective medical evidence to substantiate Petitioner's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled.

The Department's Bridges Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because Petitioner does not meet the definition of disabled and because the evidence of record does not establish that Petitioner is unable to work for a period exceeding 90 days, the Petitioner does not meet the disability criteria for State Disability Assistance benefits.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Petitioner was not eligible to receive State Disability Assistance.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, finds Petitioner not disabled for purposes of the SDA benefit program.

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

VLA/nr



Vicki L. Armstrong
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

Dan Vendzuh
931 S. Otsego Suite 1
Gaylord, MI
49735

Otsego County DHHS- via electronic mail

BSC1- via electronic mail

L. Karadsheh- via electronic mail

Petitioner

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