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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: July 1, 2020
MOAHR Docket No.: 20-003451
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250. After due notice, a telephone hearing was held on June 24, 2020 from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Alice Mosley, Eligibility 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 or around [REDACTED], 2020, Petitioner submitted an application seeking cash assistance benefits on the basis of a disability.
2. On or around May 4, 2020, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program. (Exhibit A, pp. 14-36)
3. On or around May 12, 2020, the Department sent Petitioner a Notice of Case Action denying his SDA application based on DDS' finding that she was not disabled. (Exhibit A, pp. 5)
4. On May 29, 2020 Petitioner submitted a timely written Request for Hearing disputing the Department's denial of her SDA application.

5. Petitioner alleged disabling impairments due to asthma, arthritis, back pain, heel spurs, abdominal pain, chronic body pain, swelling, chronic heart failure, open heart surgery, and depression.
6. As of the hearing date, Petitioner was [REDACTED] years old with a [REDACTED] 1965 date of birth; she was [REDACTED] and weighed [REDACTED] pounds.
7. Petitioner did not complete high school and did not obtain a GED. Petitioner has employment history of work as a retail sales associate, cashier, restaurant host/waitress, a home care aide, and a nursing assistant. Petitioner has not been employed since November 2019.
8. Petitioner has a pending disability claim with the Social Security Administration (SSA).

CONCLUSIONS OF LAW

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

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (April 2017), p. 1. An individual automatically qualifies as disabled for purposes of the SDA program if the individual receives Supplemental Security Income (SSI) or Medical Assistance (MA-P) benefits based on disability or blindness. BEM 261, p. 2. Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

Determining whether an individual is disabled for SSI purposes requires the application of a five step evaluation of whether the individual (1) is engaged in substantial gainful activity (SGA); (2) has an impairment that is severe; (3) has an impairment and duration that meet or equal a listed impairment in Appendix 1 Subpart P of 20 CFR 404; (4) has the residual functional capacity to perform past relevant work; and (5) has the residual functional capacity and vocational factors (based on age, education and work experience) to adjust to other work. 20 CFR 416.920(a)(1) and (4); 20 CFR 416.945. If an individual is found disabled, or not disabled, at any step in this process, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled at a particular step, the next step is required. 20 CFR 416.920(a)(4).

In general, the individual has the responsibility to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical

history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or, if a mental disability is alleged, to reason and make appropriate mental adjustments. 20 CFR 416.912(a); 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, are insufficient to establish disability. 20 CFR 416.927(d).

Step One

The first step in determining whether an individual is disabled requires consideration of the individual's current work activity. 20 CFR 416.920(a)(4)(i). If an individual is working and the work is SGA, then the individual must be considered not disabled, regardless of medical condition, age, education, or work experience. 20 CFR 416.920(b); 20 CFR 416.971. SGA means work that involves doing significant and productive physical or mental duties and that is done, or intended to be done, for pay or profit. 20 CFR 416.972.

In this case, Petitioner was not working during the period for which assistance might be available. Because Petitioner was not engaged in SGA, she is not ineligible under Step 1, and the analysis continues to Step 2.

Step Two

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

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28.

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally

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

The medical evidence presented at the hearing was thoroughly reviewed and is briefly summarized below.

On [REDACTED] 2019, Petitioner presented to the emergency department (ED) with complaints of shortness of breath and a history of asthma. She described a history of intermittent leg swelling for several months but could not identify any aggravating factors. She endorsed several days of a productive cough as well as wheezing. She reported that her shortness of breath was significantly worse while lying flat and causes her great difficulty while sleeping. She denied any known heart problems but stated that she had an echo performed a week prior but does not have results. Petitioner reported difficulty ambulating with the amount of the swelling of her lower extremities, stating that they feel very heavy. Physical examination showed shortness of breath, wheezing, and abnormal lung sounds bilaterally. Petitioner also reported new right ankle pain, indicating that she had surgery on her foot several years ago with plates and screws inserted. Concerns were noted as to whether they may have shifted. A chest x-ray showed no acute cardiopulmonary processes by the radiologist interpretation; however, the examining physician's interpretation was such that pulmonary vascular congestion was present, consistent with congestive heart failure. She was assessed as having acute asthma exacerbation, new onset heart failure, acute multi-factorial congestive heart failure exacerbation, an acute bilateral lower extremity edema secondary to congestive heart failure and acute shortness of breath secondary to asthma exacerbation and congestive heart failure. A diagnosis of COPD was also noted. (Exhibit A, pp.201 – 215)

A transthoracic echocardiogram performed on [REDACTED], 2019 showed moderate to severely increased left ventricle cavity size, normal left ventricle thickness, severely decreased left ventricular systolic function and global hypo kinesis. Visually estimated left ventricular ejection fraction was approximately 25 to 30%. A flattened septum in diastole was consistent with right ventricle volume overload. The right ventricle was normal in size but had mildly depressed systolic function. Severe mitral and tricuspid valve regurgitation was noted. (Exhibit A, pp.215- 217)

A chest x-ray completed on [REDACTED], 2019 showed an enlarged cardio mediastinal silhouette without congestion. Degenerative changes were noted in the thoracic spine.

An ultrasound of the lower extremities completed on [REDACTED] 2019 was negative for deep vein thrombosis in the bilateral lower extremities (Exhibit A, pp.220-224)

From [REDACTED] 2019 to [REDACTED], 2019, Petitioner was hospitalized at DMC Harper Hospital for diagnosis of mitral valve replacement with mechanical valve; tricuspid valve annuloplasty; severe mitral regurgitation; severe tricuspid regurgitation. Petitioner underwent open heart surgery for mitral valve replacement on –x tricuspid annuloplasty with Cosgrove band valve repair transesophageal. Petitioner was evaluated postoperatively by her cardiologist on [REDACTED] 2020 and it was the medical opinion of the doctor that Petitioner may not return to work until [REDACTED] 2020, at which time she will be reevaluated. (Exhibit A, pp.10 – 11)

Petitioner participated in cardiac rehabilitation through DMC Rehabilitation Institute of Michigan. Her first appointment was on [REDACTED] 2019, and as of [REDACTED] 2020, Petitioner had completed 5 of 36 sessions and was to continue with her appointments two days per week until completion of the program. (Exhibit A, pp. 232-234,253)

On [REDACTED] 2020, Petitioner had a follow-up appointment with the DMC Heart & Vascular Department, Dr. Zaher Hakim, after her valve surgery. Petitioner reported chest pressure, lightheadedness, chest pain, fatigue, and shortness of breath but reported no dyspnea on exertion, no leg edema, no syncope, and no palpitations. Muscle aches, muscle weakness, arthralgias/joint pain, and back pain were reported, but no swelling in the extremities was noted. Petitioner reported depression and sleep disturbances. Petitioner was assessed as having chronic systolic heart failure, mitral and tricuspid valve regurgitation, and atrial flutter. Petitioner was to continue with her daily medications and a follow-up echocardiogram was to be scheduled. Records from Petitioner's [REDACTED] 2020 follow-up appointment and similar findings. (Exhibit A, pp. 244-255)

A 2-D transthoracic echocardiogram was performed on [REDACTED] 2020 and showed left ventricular wall thickness was mild to moderately increased with low normal systolic function. The left ventricular ejection fraction was approximately 50 – 55%. The right ventricle was observed to be mildly dilated and hypo kinetic. (Exhibit A, pp. 255-259)

A review of the Disability Determination Explanation shows that in making its determination to find Petitioner not disabled, DDS received, reviewed and relied upon medical records that were not included in the hearing packet Exhibit A prepared by the Department and admitted into the record during the hearing. These documents were not otherwise provided to or forwarded to the undersigned ALJ for review. Such records include medical documents from Petitioner's providers including Hamtramck Community Medical Center, Dr. Usama Gabr, and Team Mental Health. Although a complete de novo review could not be completed as the Department failed to present the medical records, they will nonetheless be referenced as summarized by DDS in its Disability Determination Explanation. (Exhibit A, pp. 25-28)

A [REDACTED], 2018 MRI of Petitioner's hips showed mild degenerative changes. (Exhibit A, pp. 25-28)

In [REDACTED] 2019, Petitioner presented to Hamtramck Community Medical Center with complaints of shortness of breath and swelling of the feet. She was assessed as having hypertension, asthma, and chronic pain. During a [REDACTED] 2019 visit, Petitioner complained of cough and, lungs CTA. She was diagnosed with viral upper respiratory infection and moderate asthma with exacerbation. (Exhibit A, pp. 25-28)

On [REDACTED] 2019, Petitioner was evaluated by Dr. Gabr for a follow-up regarding her lower back pain, which she indicated radiates down. She reported that her pain is worse. Upon physical examination, Petitioner was observed to be uncomfortable and in pain. Her movement was guarded, and she had difficulty getting on the exam table. Her lumbar spine had significant tenderness. She was assessed as having lumbar pain, pain in lower limbs and bilateral hip pain. Petitioner was to proceed with a lumbar epidural injection. (Exhibit A, pp. 25-28)

A summary of records from Petitioner's treatment at Team Mental Health show that she was receiving treatment for major depressive disorder, recurrent. She was observed to have a depressed mood and reported suffering from limitations due to pain, history of depression, insomnia, and loss of appetite. She was receiving medication treatment for anxiety and depression which helped to keep her moods balanced. (Exhibit A, pp. 25-28)

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

Step Three

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of a listing and meets the duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 1.02 (major dysfunction of a joint(s) due to any cause), 1.04 (disorders of the spine), 3.02 (chronic respiratory disorders), 3.03 (asthma), 4.02 (chronic heart failure), and 12.04 (depressive, bipolar and related disorders) were considered. A thorough review of the medical evidence presented does **not** show that Petitioner's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Therefore, Petitioner is not disabled under Step 3 and the analysis continues to Step 4.

Residual Functional Capacity

If an individual's impairment does not meet or equal a listed impairment under Step 3, before proceeding to Steps 4 and 5, the individual's residual functional capacity (RFC) is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), including those that are not severe, and takes into consideration an individual's ability to meet the physical, mental, sensory and other requirements of work. 20 CFR 416.945(a)(1), (4); 20 CFR 416.945(e).

RFC is assessed based on all relevant medical and other evidence such as statements provided by medical sources, whether or not they are addressed on formal medical examinations, and descriptions and observations of the limitations from impairment(s) provided by the individual or other persons. 20 CFR 416.945(a)(3). This includes consideration of (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

Limitations can be exertional, nonexertional, or a combination of both. 20 CFR 416.969a. If individual's impairments and related symptoms, such as pain, affect only the ability to meet the strength demands of jobs (i.e., sitting, standing, walking, lifting, carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b).

The exertional requirements, or physical demands, of work in the national economy are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967; 20 CFR 416.969a(a). Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools and occasionally walking and standing. 20 CFR 416.967(a). Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds; even though the weight lifted may be very little, a job is in the light category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. 20 CFR 416.967(b). Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). Very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying of objects weighing 50 pounds or more. 20 CFR 416.967(e).

If an individual has limitations or restrictions that affect the ability to meet demands of jobs **other than** strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness,

anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi).

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). 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), to which 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 exertional and nonexertional limitations due to her impairments. Petitioner testified that she suffers from arthritis in her back, hip and legs. She testified that she has chronic heart failure which causes flare ups of excessive coughing with phlegm and mucus and that it causes swelling in her lower extremities. Petitioner stated that she had open heart surgery which resulted in a hospitalization in 2019. She reported that since her surgery, she was placed on restrictions by her doctor. She testified that she is able to walk only one block due to pain and shortness of breath from her asthma. She has numbness and tingling in her hands, making it difficult to grip and grasp items. Petitioner stated that she was involved in a car accident in 2017 and since that time is able to sit for only 15 minutes before needing to get up to stand or readjust positions due to pain in her back. She testified that she is able to stand for only 30 minutes and can slowly bend/squat but with a lot of pain and sensations. Petitioner stated that she lives with her adult daughter who assists her with shopping and household chores. Although Petitioner reported that she is able to bathe/dress herself and care for her own personal hygiene, she stated that she has a bedside commode, as she is unable to walk to the restroom at night.

With respect to her mental impairments, Petitioner testified that she was diagnosed with depression in 2005 and that she previously was seeing a therapist at Team Mental Health. She stated that since the COVID-19 situation, she has not received any mental health treatment. Petitioner stated that her depression causes a lack of desire or drive to do things. She has difficulty with concentration and suffers from some crying spells.

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement

about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources and nonmedical sources. SSR 16-3p.

The evidence presented is considered to determine the consistency of Petitioner's statements regarding the intensity, persistence and limiting effects of her symptoms. Based on a thorough review of Petitioner's medical record and in consideration of the reports and records presented from Petitioner's treating physicians, with respect to Petitioner's exertional limitations, it is found, based on a review of the entire record, that Petitioner maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a).

Based on the medical records presented, as well as Petitioner's testimony, Petitioner has mild to moderate limitations on her non-exertional ability to perform basic work activities, with respect to performing manipulative or postural functions of some work such as handling, bending, or stooping. Additionally, records indicate that Petitioner suffers from major depressive disorder. It is found that Petitioner has mild to moderate limitations in her ability to understand, remember, or apply information; in her ability to interact with others; in her ability in her ability to concentrate, persist, or maintain pace and in her ability to adapt or manage oneself.

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 retail sales associate, a cashier, a restaurant host/waitress, a home care aide, and a nursing assistant. Upon review, Petitioner's past employment is characterized as requiring light to medium exertion. Based on the RFC analysis above, Petitioner's exertional RFC limits her to sedentary work activities. As such, Petitioner is incapable of performing past relevant work. Because Petitioner is unable to perform past relevant work, she cannot be found disabled, or not disabled, at Step 4, and the assessment continues to Step 5.

Step 5

If an individual is incapable of performing past relevant work, Step 5 requires an assessment of the individual's RFC and age, education, and work experience to

determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v); 20 CFR 416.920(c). If the individual can adjust to other work, then there is no disability; if the individual cannot adjust to other work, then there is a disability. 20 CFR 416.920(a)(4)(v).

At this point in the analysis, the burden shifts from Petitioner to the Department to present proof that Petitioner has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(c)(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978).

When the impairment(s) and related symptoms, such as pain, only affect the ability to perform the exertional aspects of work-related activities, Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix 2, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

However, when a person has a combination of exertional and nonexertional limitations or restrictions, the rules pertaining to the strength limitations provide a framework to guide the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

In this case, Petitioner was ■ years old at the time of application and ■ years old at the time of hearing, and thus, considered to be advanced age (age 55 and older) for purposes of Appendix 2. She completed the 11th grade but did not obtain a high school diploma or GED and has unskilled work history. As discussed above, Petitioner maintains the exertional RFC for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities, with the noted additional nonexertional limitations. Thus, based solely on her exertional RFC, the Medical-Vocational Guidelines result in a disability finding based on Petitioner's exertional limitations, and an analysis of the additional nonexertional/mental limitations will not be addressed. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

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


DECISION AND ORDER

Accordingly, the Department's 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], 2020 SDA application to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified; and
3. Review Petitioner's continued eligibility in May 2021.

ZB/tm



Zainab A. Baydoun
Administrative Law Judge
for Robert Gordon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

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

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

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

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

DHHS

Richard Latimore
4733 Conner
Detroit, MI 48215

Petitioner

[REDACTED]
MI [REDACTED]

cc: SDA: L. Karadsheh
AP Specialist-Wayne County