



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 5, 2021
MOAHR Docket No.: 20-006004
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 October 20, 2020. The Petitioner, [REDACTED], appeared on his own behalf. The Department of Health and Human Services (Department), was represented by Karl Hiipakka, Eligibility Specialist (ES).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-716.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the Medical Assistance (MA) and/or State Disability Assistance (SDA) benefit programs?

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] 2020, Petitioner applied for SDA and reported that he was disabled. (Exhibit A, p. 1)
2. On July 21, 2020, the Medical Review Team/Disability Determination Services (MRT/DDS) found Petitioner not disabled. (Exhibit A, pp. 14-20)
3. On August 4, 2020, the Department notified Petitioner that SDA was denied effective May 1, 2020. (Exhibit A, pp. 8-12)
4. On August 20, 2020, the Department received Petitioner's timely written request for hearing. (Exhibit A, pp. 3-6)

5. Petitioner alleged disabling impairments including: chronic pancreatitis, back pain, knee pain, arthritis in shoulder, kidney disease, hypertension, anemia, migraines, major depression, PTSD, anxiety, and insomnia. (Exhibit A, pp. 4 and 57; Petitioner Testimony)
6. At the time of hearing, Petitioner was [REDACTED] years old with an [REDACTED], [REDACTED], birth date; was 6' in height; and weighed 205 pounds. (Petitioner Testimony)
7. Petitioner completed an associate degree in applied science and has a work history including press operator, biomedical technician, field technician, production, foreman, warehouse/PIT driver, premise technician, and group home operator. (Exhibit A, p. 60; Petitioner Testimony)
8. Petitioner's impairments have lasted, or are expected to last, continuously for a period of 90 days or longer.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

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. 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 416.913. An individual's statements about pain or other symptoms are not, in and of themselves, sufficient to establish disability. 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) daily activities; (2) the location/duration/frequency/intensity of an applicant's pain or other symptoms; (3) precipitating and aggravating factors; (4) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain or other symptoms; (5) any treatment other than medication that the applicant has received to relieve pain or other symptoms; (6) any measures the applicant uses to relieve pain or other symptoms; and (7) other factors concerning the applicant's functional limitations and restrictions due to pain or other symptoms. 20 CFR 416.929(c)(3). The applicant's pain or other symptoms must be considered 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 (i.e. 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 three to step four. 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 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both steps four and five. 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 416.922(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(a)(1)(iv)(vi)(vii).

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. Therefore, Petitioner is not ineligible for disability benefits under Step 1.

The severity of Petitioner's alleged impairment(s) is considered under Step 2. Petitioner 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 416.920(a)(4)(ii); 20 CFR 416.920(c). 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 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.922(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 alleged disabling impairments including: chronic pancreatitis, back pain, knee pain, arthritis in shoulder, kidney disease, hypertension, anemia, migraines, major depression, PTSD, anxiety, and insomnia. (Exhibit A, pp. 4 and 57; Petitioner Testimony)

Petitioner was discharged from the [REDACTED] on [REDACTED], 2019, due to a urine drug screen that was positive for cocaine and marijuana. (Exhibit A, p. 229)

Petitioner was seen in the emergency department on [REDACTED] 2019, for abdominal pain and constipation. A CT showed a pancreatic lesion. (Exhibit A, pp. 305-318)

Petitioner was seen in the emergency department on [REDACTED], 2019, for abdominal pain and constipation. (Exhibit A, pp. 319-330)

On [REDACTED], 2020, Petitioner was seen by [REDACTED] for abdominal pain and several tests were scheduled. (Exhibit A, pp. 295-299)

Petitioner was hospitalized [REDACTED] 2019, for hypertension, pancreatic mass, intestinal obstruction, pancreatic cyst, pancreatitis, biliary colic, and gall bladder sludge. An ultrasound showed a moderate sized right hydrocele extending into the right inguinal canal. Petitioner underwent robotic cholecystectomy on [REDACTED] 2019. Repeat abdominal CT showed inflammatory changes in the pancreas with increased size of the hypoattenuating cyst or pseudocyst in the tail of the pancreas compared to a [REDACTED], 2019 abdominal CT. (Exhibit A, pp. 199-202, 210-213, 331-410)

Petitioner was seen in the emergency department on [REDACTED], 2019, for generalized abdominal pain, slow transit constipation, and abdominal gas pain. (Exhibit A, pp. 209 and 411-423)

Petitioner was hospitalized [REDACTED] 2019, for abdominal pain. A CT did not demonstrate any findings that were concerning for surgical indications. Petitioner was treated in a conservative fashion with bowel rest and symptomatic care. (Exhibit A, pp. 203-208 and 423-470)

Petitioner was seen in the emergency department on [REDACTED] 2020, for abdominal pain. (Exhibit A, pp. 470-479)

Petitioner was seen in the emergency department on [REDACTED] 2020, for abdominal pain. (Exhibit A, pp. 479-492)

A [REDACTED] 2020, note from [REDACTED] stated that Petitioner was unable to attend class for [REDACTED] because he was being worked up for his current medical issues and will require follow ups with specialists and possible surgery. (Exhibit A, p. 64)

Petitioner was hospitalized [REDACTED] 2020, for acute recurrent pancreatitis. Elevated CK and a history of hypertension were listed as active problems. There was a recommendation for partial pancreatectomy with possible splenectomy once Petitioner was more stable and after resolution of the acute pancreatitis. (Exhibit A, pp. 223-224 and 492-557)

On [REDACTED] 2020, Petitioner was seen by urology for a hydrocele. (Exhibit A, pp. 225-228)

From [REDACTED] 2020, to [REDACTED] 2020, Petitioner was seen at the [REDACTED]. The assessment indicated chronic pancreatitis related abdominal pain, GERD, constipation, marijuana use, and nicotine dependence. Petitioner was discharged when the result from the [REDACTED], 2020 urine drug screen was reviewed. (Exhibit A, pp. 187-192, 218-222, 230-231)

A [REDACTED], 2020, colonoscopy was normal. (Exhibit A, p. 232)

On [REDACTED] 2020, Petitioner saw [REDACTED] for pain management. The assessment indicated multiple diagnoses, including: persistent, severe complex pain; persistent severe lower back pain syndrome; lumbar stenosis; lumbar disc degenerative disk disease; lumbar/lumbosacral spondylosis; bilateral sacroiliitis; chronic pain syndrome; nonspecific abdominal pain; chronic pancreatitis; and myalgia. In part, the doctor indicated he needed to get the reports from the scanning that was done at [REDACTED]. Petitioner should not be using any weed or alcohol; a urine drug screen was sent to the lab; and lumbar spine X-rays were ordered, as the severe back pain started after a motor vehicle accident in [REDACTED] of 2019. Comprehensive care was recommended including: physical therapy; stretching exercises; home exercises; medications (with monitoring of pain medications); other adjective medications; cognitive plan behavioral therapy; and diagnostic and prognostic injections at the source of pain, to decrease inflammation and swelling and to improve mobility, so Petitioner is able to do better physical therapy. (Exhibit A, pp. 233-236)

Petitioner was seen in the emergency department on [REDACTED], 2020, for abdominal pain, renal insufficiency, and elevated blood pressure. (Exhibit A pp. 557-571)

Petitioner was hospitalized [REDACTED], 2020, for acute recurrent pancreatitis, abnormal abdominal CT, renal insufficiency improved with fluids, mild dehydration on admission improved, and diverticulosis without diverticulitis. The CT of the abdomen showed improvement in the appearance of the pancreatitis. It was noted that Petitioner had recently started prednisone. General surgery planned for MRI pancreatic protocol in two weeks, Petitioner was to continue prednisone previously prescribed by surgery. (Exhibit A, pp. 571-616)

Petitioner was seen in the emergency department on [REDACTED], 2020, for abdominal pain. (Exhibit A, pp. 616-625)

An [REDACTED] 2020 MRI of the abdomen showed several findings. (1) Sequela from previous episode or acute pancreatitis including residual small pseudocysts along the posterior aspect of the pancreatic body and at the pancreatic tail both having decreased in size compared to the prior CT studies. A splenic vein occlusion has developed. (2) There is a relative hyperemia with clustered nodular enhancement within the pancreatic body measuring approximately 4.5cm in length which was seen on prior exams dating back to [REDACTED] 2019. An underlying vascular malformation and/or

pseudoaneurysm formation is to be considered. A hypervascular mass is also considered although there does not appear to be any distortion of the pancreatic duct which courses directly through this segment of the pancreas. CT angiography was suggested. (3) small left renal cyst. (Exhibit A, pp. 626-629)

Petitioner was seen in the emergency department [REDACTED], 2020 for abdominal pain. A CT was not ordered because Petitioner had an MRI earlier in the day, which had not yet been interpreted at the time of the initial workup. Petitioner was placed in observation. The MRI was read and showed a hypervascular mass. CT angiography was recommended to further evaluate. The CT angiography showed that this questionable mass was venous congestion and was not an AV malformation nor an aneurysm. Due to the results of the CT angiography and improved symptoms, Petitioner was cleared for discharge. (Exhibit A, pp. 237-238 and 629-672)

An [REDACTED], 2020, [REDACTED] Health Summary contained a problem list documenting multiple conditions including drug abuse, allergic rhinitis, chronic kidney disease stage 1, diabetes mellitus, hyperlipidemia, inguinal hernia, insomnia, low back pain, nausea, PTSD, shoulder pain, depressive disorder, hyperlipidemia, lumbago, peri-rectal abscess, and sinusitis. The records indicate Petitioner's mental health treatment has been with the VA. (Exhibit A, pp. 674-716)

[REDACTED] 2019 through [REDACTED] 2020 records from [REDACTED] show diagnosis and treatment for multiple conditions including: chronic pancreatitis, pancreatic lesion (suspected pancreatic hemangioma), back pain lumbar and thoracic, abdominal pain, hypertension, and headache. (Exhibit A, pp. 249-291)

[REDACTED] 2020 records from [REDACTED] indicate Petitioner was seen by several specialists for recurrent pancreatitis and pain management. Several imaging studies were reviewed. A [REDACTED] 2020, MRI of abdomen showed no significant interval change in the appearance of the lesion of low signal intensity in the tail of the pancreas from the prior study, likely this finding represented sequela of chronic thrombosis in view of the history of pancreatitis with splenic vein thrombosis. A [REDACTED], 2020, X-ray of thoracic spine showed the thoracic vertebral heights are maintained. A [REDACTED] 2020 X-ray of the lumbar spine showed the lumbar vertebral heights and intervertebral disc spaces are maintained. A [REDACTED], 2020, X-ray of the SI joints showed minimal degenerative changes in both sacroiliac joints. The pain management specialist's impressions were acute recurrent pancreatitis, chronic midline low back pain without sciatica, chronic pain of both knees, and history of PTSD. (Exhibit A, pp. 153-172)

Petitioner was hospitalized June [REDACTED], 2020, and underwent surgery to repair a right inguinal hernia. (Exhibit A, pp. 178-186)

On [REDACTED] 2020, Petitioner attended a consultative Mental Status Examination. The impressions indicate Petitioner presented with marked impairment in mental status, slowed cognitive processing, flat affect, and perseverative, intrusive thoughts. Petitioner struggled to attend to tasks at hand and required frequent redirection and prompting. Petitioner presented with moderate impairment in his ability to understand and apply

information, he was able to do things, but it took a long time. Petitioner struggled with complex instructions but managed simple instructions adequately. Petitioner struggled to understand and interpret abstract concepts. Petitioner was easily overwhelmed, and it was noted that he does not manage stress effectively. Petitioner's functioning was currently markedly impacted by mental status. Petitioner's history suggests significant difficulty managing stress and interacting appropriately with others. It was likely that Petitioner would not be able to maintain any type of mainstream employment due to the combination of mood, panic, and physical medical challenges. (Exhibit A, pp. 141-145)

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 medical evidence establishing that he does have some limitations on the 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, or can be expected to last, continuously for 90 days; therefore, Petitioner is not disqualified from receipt of SDA benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if Petitioner's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The evidence confirms recent diagnosis and treatment of multiple impairments including: pancreatitis, hypertension, lumbar and thoracic back pain, knee pain, shoulder pain, depression, and PTSD.

Based on the objective medical evidence, considered listings included: 1.00 Musculoskeletal System, 5.00 Digestive System, and 12.00 Mental Disorders. However, the medical evidence was not sufficient to meet the intent and severity requirements of any listing, or its equivalent. For example, the imaging reports did not show findings that would establish that Petitioner met or equaled the requirements of listings 1.04 disorders of the spine. Similarly, the medical records did not establish that Petitioner met or equaled the requirements of listing 5.08 weight loss due to any digestive disorder; 12.04 depressive, bipolar and related disorders; 12.06 anxiety and obsessive-compulsive disorders; or 12.08 personality and impulse-control disorders. Accordingly, Petitioner cannot be found disabled, or not disabled at Step 3; therefore, Petitioner's eligibility is considered under Step 4. 20 CFR 416.905(a).

Before considering the fourth step in the sequential analysis, a determination of the individual's residual functional capacity ("RFC") is made. 20 CFR 416.945. An individual's RFC is the most he/she can still do on a sustained basis despite the limitations from the impairment(s). *Id.* The total limiting effects of all the impairments, to include those that are not severe, are considered. 20 CFR 416.945(e).

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). 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. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though 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. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.* 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). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* 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). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered non-exertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, individual's residual functional capacity is compared with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment, along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty to function 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. can't 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). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

The evidence confirms recent diagnosis and treatment of multiple impairments including: pancreatitis, hypertension, lumbar and thoracic back pain, knee pain, shoulder pain, depression, and PTSD. Petitioner's testimony indicated he can: walk

about a block, maybe 5 minutes; stand maybe 5 minutes; sit for 20 minutes with shifting every 5-10 minutes; and can lift and carry a gallon of milk, unknown if he can lift and carry anything heavier. Petitioner described daily abdominal pain, back pain, sciatica on the right side, knee pain, and right shoulder pain. Petitioner also described symptoms related to his mental health, including insomnia, racing thoughts, always vigilant as to what is going on around him, and not getting out to socialize. (Petitioner Testimony) The testimony of Petitioner regarding the severity of his limitations was partially supported by the medical records and is found only partially credible. For example, the ██████, 2020 X-rays showed the thoracic vertebral heights are maintained; the lumbar vertebral heights and intervertebral disc spaces are maintained; and there are minimal degenerative changes in both sacroiliac joints. The pain management specialist impressions included chronic midline low back pain without sciatica. (Exhibit A, pp. 153-172)

The ██████ 2020, consultative Mental Status Examination indicated Petitioner's functioning was currently markedly impacted by mental status. Petitioner's history suggests significant difficulty managing stress and interacting appropriately with others. It was likely that Petitioner would not be able to maintain any type of mainstream employment due to the combination of mood, panic, and physical medical challenges. (Exhibit A, pp. 141-145) Therefore, due to the combination of exertional and non-exertional limitations, Petitioner does not maintain the residual functional capacity to perform sedentary work as defined by 20 CFR 416.967(a) on a sustained basis.

After review of the entire record it is found, at this point, that Petitioner has a combination of exertional and non-exertional limitations and does not maintain the residual functional capacity to perform sedentary work as defined by 20 CFR 416.967(a) on a sustained basis.

The fourth step in analyzing a disability claim requires an assessment of the Petitioner's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is considered. 20 CFR 416.960(b)(3).

Petitioner has a work history including press operator, biomedical technician, field technician, production, foreman, warehouse/PIT driver, premise technician, and group home operator. (Exhibit A, p. 60; Petitioner Testimony) In light of the entire record and Petitioner's RFC (see above), it is found that Petitioner is not able to perform his past relevant work. Accordingly, the Petitioner cannot be found disabled, or not disabled, at Step 4; therefore, the Petitioner's eligibility is considered under Step 5. 20 CFR 416.905(a).

In Step 5, an assessment of Petitioner's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Petitioner was ■ years old and, thus, considered to be a younger individual for disability purposes. Petitioner completed an associate degree in applied science and has a work history including press operator, biomedical technician, field technician, production, foreman, warehouse/PIT driver, premise technician, and group home operator. (Exhibit A, p. 60; Petitioner Testimony) Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Petitioner to the Department to present proof that the Petitioner has the residual capacity to substantial gainful employment. 20 CFR 416.960(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). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, 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).

The evidence confirms recent diagnosis and treatment of multiple impairments including: pancreatitis, hypertension, lumbar and thoracic back pain, knee pain, shoulder pain, depression, and PTSD. As noted above, Petitioner does not maintain the residual functional capacity to perform sedentary work as defined by 20 CFR 416.967(a) on a sustained basis.

After review of the entire record, and in consideration of the Petitioner's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, Petitioner is found disabled at Step 5.

In this case, the Petitioner is found disabled for purposes SDA benefits as the objective medical evidence establishes a physical and/or mental impairment that met the federal SSI disability standard with the shortened duration of 90 days. In light of the foregoing, it is found that Petitioner's impairments did preclude work at the above stated level for at least 90 days.

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. Initiate a review of the application dated [REDACTED] 2020, for SDA, if not done previously, to determine Petitioner's non-medical eligibility. The Department shall inform Petitioner of the determination in writing. A review of this case shall be set for July 2021.

CL/ml



Colleen Lack
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

Elisa Daly
Saginaw County DHHS – via electronic
mail

BSC2 – via electronic mail

L. Karadsheh – via electronic mail

Petitioner

██████████ – via first class mail
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