[redacted]
[redacted]
[redacted], MI [redacted]

Date Mailed: June 30, 2021
MOAHR Docket No.: 21-000983
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 March 31, 2021. The Petitioner was represented by [redacted], Sister and Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Barbara Schram, Family Independence Manager (FIM).

During the hearing proceeding, the Department's hearing summary packet was admitted as Exhibits A-G, pp. 1-139.

ISSUE

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

FINDINGS OF FACT

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

1. On [redacted] 2020, Petitioner applied for SDA and reported that he was disabled. (Hearing Summary)

2. On December 7, 2020, the Medical Review Team/Disability Determination Services (MRT/DDS) found Petitioner not disabled. (Exhibit C, pp. 9-15)

3. On December 17, 2020, a Notice of Case Action was issued informing Petitioner that SDA was denied. (Exhibit G, pp. 135-139)

4. On February 22, 2021, the Department received the timely written request for hearing filed on Petitioner's behalf. (Exhibit A, pp. 1-4)

5. Petitioner alleged disabling impairments including: broken back in three spots, hair fracture pelvis, head trauma, high blood pressure. (Exhibit D, p. 44)

6. At the time of application, Petitioner was [redacted] years old with an [redacted] birth date; was [redacted] in height; and [redacted] weighed pounds. (Exhibit D, pp. 40-41)

7. Petitioner completed the [redacted] grade and has a work history of asphalt foreman. (Exhibit D, p. 44)

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 impariment 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.

The testimony of Petitioner's AHR and the FIM indicated Petitioner may not have filed an appeal with the Social Security Administration (SSA) regarding their most recent determinaion that Petitioner did not meet the disability criteria. (AHR and FIM Testimony) If that is accurate, there is no jurisiction for this Administrative Law Judge (ALJ) to review disability and Petitioner must also be found not disabled for the SDA program because SSA made a final determinaion. However, if an appeal was filed, or there is a claim of a new or worsening impairment, there would be jurisdiction. A review of disability was completed in case either of those circumstances apply.

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: broken back in three spots; hair fracture pelvis; head trauma; and high blood pressure. (Exhibit D, p. 44) While some older medical records were submitted and have been reviewed, the focus of this analysis will be on the more recent medical evidence. Overall the records document that on [redacted], 2019, Petitioner was run over by a truck.

A [redacted], 2020, record from [redacted] Center documented active problems of: chronic back pain and lumbar vertebral fracture. In part, the physical exam noted: blood pressure of 182/110; symmetric neck slightly diminished range or motion moderate tenderness no spinous deformity; thoracic spine upper portion minimal tenderness thoracolumbar junction tender; wears TLSO brace that is worn; psoas muscle testing reveals weakness and pain associated with left hip flexion; and moves deliberately and cautiously associated with pain. The assessment documented chronic back pain, lumbar vertebral fracture, neck pain, severe thoracolumbar pain with history of L1 fracture motor vehicle accident pedestrian; pelvis injury by patient reported history but documentation from Beaumont says sacroiliitis; and neck pain with abnormal x-ray intermittent hand numbness described. The plan included obtaining imaging studies. (Exhibit E, p. 115-118)

A [redacted] 2020, x-ray of the pelvis showed normal AP and lateral views of the sacrum without fracture. Petitioner was known to have compression fracture through the superior endplate of L1. (Exhibit E, pp. 68 and 129-130)

A [redacted], 2020, x-ray of the lumbar spine showed a stable 20% old, healed compression fracture through the superior endplate of L1. Moderate bilateral L4/L5 and L5/S1 facet hypertrophic changes were also seen. (Exhibit E, pp. 69-70 and 130-131)

A [redacted], 2020, x-ray of the thoracic spine showed mild levoscoliosis of the mid thoracic spine, there was no fracture of the thoracic spine. Petitioner was known to have compression fracture through the superior endplate of L1. (Exhibit E, pp. 71 and 125-126)

A [redacted] 2020, x-ray of the cervical spine showed: mild to moderate chronic vertebral C4 compressive deformity without retropulsion; straightening normal cervical lordotic curvature that may be related to muscle spasm; and mild mid-lower cervical spondylosis without subluxation or osseous spinal stenosis. (Exhibit E, pp. 72 and 123-124)

A [redacted] 2020, MRI of the cervical spine showed Petitioner's primary abnormality was facet arthropathy at C7-T1 on the left side with bone marrow edema, similar to the prior CT of last year. A dominant disc herniation was not identified. There was a diffuse bulge of the annulus-disc protrusion at C6 and C7 with no significant impingement of the thecal sac. Degenerative neural foraminal compromise was described. (Exhibit E, pp. 64-65 and 121-122)

A [redacted] 2020, MRI of the lumbar spine showed subtle deformity superior endplate of the L1 without bone marrow edema consistent with a chronic process. No disc herniation, thecal sac stenosis, or neural foraminal compromise. Markedly abnormal signal changes of the sacroiliac joints consistent with arthritis could be inflammatory in etiology, more on the left side. No joint effusion was seen. (Exhibit E, pp. 66-67 and 119-120)

A [redacted], 2020, record from the pain clinic showed that Petitioner had tried physical therapy, but it made his pain worse. The physical exam noted that Petitioner was in obvious discomfort. The assessment indicated lumbosacral spondylosis without myelopathy, chronic severe axial low back pain, and lumbar degenerative disc disease. (Exhibit E, pp. 82-86)

A [redacted], 2020, record from [redacted] Center documented active problems of: chronic back pain; left hip pain; lumbar vertebral fracture; and neck pain. In part, the physical exam noted: normal gait and station but somewhat slow arising from chair and walking; blood pressure of 172/100; an area of baldness where Petitioner reported his head hit the pavement during the original injury; regular headaches; moderate tenderness to neck palpation; minimal tenderness thoracis spine; lumbosacral area tender slightly more left than right; upper extremity grip strengths 5/5; lower extremity strength 5/5. The assessment documented intractable migraine without aura and without status migrainosus; chronic back pain; and lumbar vertebral fracture. The plan including tapering of opioids next refill; encouraging walking and light activities in brace; no heavy work until review in 2 months with hope of return to work in July/August; and referral to neurology for migraine headache symptoms closed head injury sequelae. (Exhibit E, p. 111-114)

[redacted], 2020 cervical, thoracic, and pelvic x-rays showed: irregularity of the articular surface of the bilateral sacroiliac joints representing degenerative or inflammatory arthritis; no evidence of arthritis seen in the bilateral hips; and mild degenerative disc disease at C6-7 level. (Exhibit E, pp. 58-63)

A [redacted] 2020, record from [redacted] Center documented active problems of: chronic back pain; intractable migraine without aura and without status migrainosus; left hip pain, lumbar vertebral fracture, and neck pain. In part, the physical exam noted: Petitioner's blood pressure was high (142/102); Petitioner was wearing his TLSO brace albeit loosely; Petitioner was able to walk with a good quality gait; grip strengths were good bilaterally; x-rays showed mild OA mild wedging of the upper lumbar vertebrae suggesting L1 or T12 mild compression fracture; and elbow was somewhat swollen with evidence of olecranon bursitis but there was no severe erythema or high grade warmth and range of motion of the elbow was full. The assessment documented chronic low back pain, left hip pain, lumbar vertebral fracture, and olecranon bursitis of right elbow. The record also notes chronic pain and decondition after moderate compression fracture that appeared healed now, spondylosis neck, deconditioning, new olecranon bursitis and new headache. The plan included: encouraging moderate activities out of the TLSO; walking program; elbow pad

recommended; and tapering norco. Physical therapy was to be ordered formally for rehab exercise program. (Exhibit E pp. 108-110)

A [redacted] 2020 record from [redacted] Michigan - [redacted] documented a chronic pain consultation. Petitioner's blood pressure was 186/109. Physical examination findings included: normal symmetric gait with no ataxia or unsteadiness; tenderness with cervical and lumbar spine palpation; limited range of motion with extension of cervical pain with pain; limited range of motion flexion of lumbar spine with pain; nonexistent extension of lumbar spine with severe pain; moderate tenderness over sacroiliac joins bilaterally; hip joints normal appearance, no tenderness, full range of motion without pain; full range of motion in shoulders, arms, hands, knees, legs, and feet; normal coordination; normal tone and muscle strength; and normal affect and mood oriented to person, place, time, and situation. The assessment documented: cervical spondylosis; cervical facet arthropathy; cervical degenerative disc disease; cervical disc displacement; lumbar spondylosis; lumbar facet arthropathy; lumbar degenerative disc disease; lumbar disc displacement; lumbar spinal stenosis; lumbar radiculopathy; and sacroiliitis. The treatment plan indicated the doctor felt that Petitioner would benefit from injection therapy along with other modalities. It appears that the first injection was scheduled for [redacted], 2020. (Exhibit F, pp. 131-134)

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: chronic low back pain, left hip pain, lumbar vertebral fracture, olecranon bursitis of right elbow, chronic pain and spondylosis neck, deconditioning, headache, cervical spondylosis, cervical facet arthropathy, cervical degenerative disc disease, cervical disc displacement, lumbar spondylosis, lumbar facet arthropathy, lumbar degenerative disc disease, lumbar disc displacement, lumbar spinal stenosis, lumbar radiculopathy, and sacroiliitis.

Based on the objective medical evidence, considered listings included: 1.00 musculoskeletal disorders. However, the medical evidence was not sufficient to meet the intent and severity requirements of any listing, or its equivalent. 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: chronic low back pain, left hip pain, lumbar vertebral fracture, olecranon bursitis of right elbow, chronic pain and spondylosis neck, deconditioning, headache, cervical spondylosis, cervical facet arthropathy, cervical degenerative disc disease, cervical disc displacement, lumbar spondylosis, lumbar facet arthropathy, lumbar degenerative disc disease, lumbar disc displacement, lumbar spinal stenosis, lumbar radiculopathy, and sacroiliitis. Petitioner was not present for the hearing and therefore did not provide any testimony. Petitioner's sister testified that Petitioner is in so much pain he cannot function, tie his own shoes, do anything, lay for long, sit for long, and cannot stand. It was asserted that the doctors have put Petitioner off work until further notice. Petitioner's sister assists Petitioner with stacking wood and cleaning his house. Petitioner's sister also explained that Petitioner got very depressed. (AHR Testimony)

The medical records do not fully support the severity and degree of limitations described by Petitioner's sister. For example, the [redacted] 2020, record from [redacted] Center indicated Petitioner was only restricted from heavy work and it was anticipated that he could return to work in [redacted] (Exhibit E, p. 111-114) The [redacted] 2020, record from Ascension St. Joseph Hospital Bone & Joint Center indicated Petitioner was able to walk with a good quality gait and the plan encouraged moderate activities out of the TLSO, a walking program, and tapering pain medications. Physical therapy was to be ordered formally for rehab exercise program. (Exhibit E pp. 108-110) It does not appear that Petitioner pursued this recommended treatment. Further, the [redacted] 2020 record from [redacted] Michigan - [redacted] documented normal symmetric gait with no ataxia or unsteadiness, some limited range of motion of the spine, full range of motion of hips, shoulders, arms, hands, knees, legs, and feet; normal coordination; normal tone and muscle strength; and normal affect and mood. (Exhibit F, pp. 131-134)

After review of the entire record it is found, at this point, that Petitioner has a combination of exertional and non-exertional limitations and maintains the residual functional capacity to perform limited light work as defined by 20 CFR 416.967(b) on a sustained basis. Limitations as set forth in the SSA physical residual functional capacity assessment are appropriate, which include: occasional climbing, balancing, stopping, kneeling, crouching, and crawling; occasional overhead reaching; and avoiding concentrated exposure to extreme cold, wetness, vibration, and hazards. (Exhibit C, pp. 21-28)

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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 of asphalt foreman. (Exhibit D, p. 44) 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 the hearing, Petitioner was [redacted] years old and, thus, considered to be a closely approaching advanced age for disability purposes. Petitioner completed the 11th grade and has worked as an asphalt foreman. (Exhibit D, p. 44) 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).

As noted above, Petitioner has a combination of exertional and non-exertional limitations and maintains the residual functional capacity to perform limited light work as defined by 20 CFR 416.967(b) on a sustained basis. Limitations include occasional climbing, balancing, stopping, kneeling, crouching, and crawling; occasional overhead reaching; and avoiding concentrated exposure to extreme cold, wetness, vibration, and hazards. Significant jobs would still exist with these limitations. After review of the entire record, and in consideration of Petitioner's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II], specifically rule 202.11, as a guide Petitioner is found not disabled at Step 5.

In this case, the Petitioner is found not disabled for purposes of SDA benefits, as the objective medical evidence does not establish a physical and/or mental impairment that met the federal SSI disabiltiy standard with the shortened duration of 90 days for the

[redacted] 2020 SDA application. In light of the foregoing, it is found that Petitioner's impairments did not 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 not disabled for purposes of the SDA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.

CL/ml

Colleen Lack
Administrative Law Judge
for Elizabeth Hertel, 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 – via electronic mail	MDHHS-GR8North-Hearings BSC1 L. Karadsheh MOAHR
Petitioner – via first class mail	[redacted] [redacted] [redacted] MI [redacted]
Authorized Hearing Rep. – via first class mail	[redacted] [redacted] [redacted] MI [redacted]