



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

██████████ ██████████
██████████ ██████████ ██████████
██████████ MI ██████████

Date Mailed: May 6, 2022
MOAHR Docket No.: 22-000007
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 Zoom hearing was held on April 6, 2022. The Petitioner appeared for the hearing and was represented by his attorney Allison Selleck. The Department of Health and Human Services (Department) was represented by Stephanie Service, Assistant Attorney General. The Department had Thomas Suggitt, Eligibility Specialist, as a witness and Becky Fraser observing.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the 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 March 6, 2018, Petitioner experienced a traumatic brain injury (TBI) when he fell down stairs.
2. In November 2019, Petitioner was in a motor vehicle accident.
3. In November of 2020, Petitioner was undergoing the Redetermination process for SDA benefits. The Disability Determination Service (DDS), formerly known as Medical Review Team (MRT), determined that Petitioner was no longer disabled. Respondent failed to process the case properly and Petitioner continued receiving SDA benefits until ██████████, 2021 when the error was discovered, and SDA benefits were closed. (Exhibit A, p. 1042)
4. On ██████████ 2021, Respondent received Petitioner's application for SDA benefits. (Exhibit A, pp. 5-9)

5. On September 30, 2021, Petitioner's information was sent to the DDS.
6. On November 22, 2021, the DDS determined that Petitioner was not disabled and was capable of performing other work. (Exhibit A, pp. 11-17)
7. On November 24, 2021, Respondent verbally notified Petitioner of the DDS decision.
8. On January 3, 2022, Respondent received Petitioner's request for hearing disputing the processing of his SDA application. (Exhibit A, pp. 3-4)
9. On ██████████ 2022, Respondent issued a Benefit Notice informing Petitioner that his application for SDA had been denied and that DDS had determined he was capable of performing other light work tasks. (Exhibit A, pp. 1037-1040)
10. Petitioner alleged a severe traumatic brain injury, back pain, low vision, poor memory, bipolar type I, Attention Deficit Disorder (ADD), anxiety, depression, and Obsessive-Compulsive Disorder (OCD). (Exhibit A, pp. 11, 54)
11. The medical evidence revealed the following:
 - a. As of January 2017, Petitioner registered a service animal to perform tasks to mitigate the effects of his conditions, improve his health and well-being, and detect seizures. (Exhibit A, pp. 80, 87, 239)
 - b. In ██████████ of 2020, Petitioner completed his first neuropsychological examination with inconclusive results because validity measures were not met, even those that would be expected of an individual with severe dementia. During this evaluation, Petitioner noted that he has the assistance of home healthcare for 2 to 2.5 hours per day to assist with household tasks/cleaning, food preparation, and setting up medication. He manages his own finances but becomes frustrated organizing his bills. He has a valid driver's license but attempts to avoid driving because of problems like nearly missing exits. (Exhibit A, pp. 303-306, 400-406)
 - c. In ██████████ 2020, Petitioner had a positive Hoffman's exam bilaterally, in addition to bilateral lower extremity spasticity and ataxia. (Exhibit A, p. 113)
 - d. After an MRI, Petitioner was diagnosed with cervical spinal stenosis. (Exhibit A, pp. 116, 316-322) The medical records do not identify any suggested limitations based upon Petitioner's diagnosis.
 - e. In ██████████ 2020, Petitioner had an epidural steroid injection in the left side of the cervical region after complaints of throbbing and shooting pain in his back made worse by physical activity, sitting, bending, twisting, stress, light touch, prolonged sitting, riding in a car for long distances, prolonged standing, and climbing stairs. It is also noted that Petitioner had an ataxic

gait but did not use any assistive devices. (Exhibit A, pp. 131-132, 345-346)

- f. At a follow-up appointment in ██████████ 2020, Petitioner indicated that the epidural steroid injection helped about 15% for about two days and then his pain and difficulties returned to the previous level; Petitioner was not compliant with his physical therapy recommendation. (Exhibit A, pp. 135-136)
- g. On ██████████ 2020, Petitioner was seen for a second opinion of his neuropsychological assessment which revealed the following: a score of 15 on the Patient Health Questionnaire-9 (PHQ-9) showing moderately severely symptoms of depression (little interest in pleasure activities, feeling depressed, trouble falling or staying asleep, fatigue, feeling bad about oneself, trouble concentrating, and moving slowly), and a score of 15 on the Generalized Anxiety Disorder 7-Item Scale (GAD-7) showing severe symptoms of depression (feeling nervous, inability to control worry, worrying too much, trouble relaxing, irritability, and afraid something bad will happen, and frustration with his self after his TBI); however, the results of the assessment were inconclusive due to suboptimal and inconsistent effort but noted that a mood disorder is consistent with testing which is likely major depressive disorder. Finally, Petitioner is “independent for basic activities of daily living (e.g., bathing, grooming, dressing)” but receives some assistance from home health aides for financial management, chores, and cooking. (Exhibit A, pp. 86-91)
- h. In ██████████ 2021, Petitioner noted to his doctor that he had clumsiness, loss of balance, memory loss, visual changes, weakness, an auditory change, an aura, confusion, fatigue, and neck pain with a gradual worsening of symptoms. Examination of Petitioner noted all normal results except a slightly delayed recall. (Exhibit A, pp. 144-146)
- i. In ██████████ 2021, Petitioner noted at a follow up examination that he would like to see neurophthalmology because of decreasing vision and depth perception. The examination again revealed all normal results with the exception of a slightly delayed recall. (Exhibit A, pp. 156-158)
- j. During a therapy session in ██████████ 2021, Petitioner noted that he “keep[s] up on bills, to do lists, analytical. I think rather conservatively. I try to plan ahead, but that’s harder for me now. I am still generally handy with car repairs. I am honest, care more about people, more patient than earlier years. I am more engaging, I am grateful for what I have gratitude for.” The clinician noted that Petitioner meets the criteria for generalized anxiety disorder because of excessive worry, irritation, trouble sleeping, and concentrating. (Exhibit A, pp. 96-101)

- k. In ██████ 2021, Petitioner was terminated from treatment with the Michigan Pain Consultants, PC for failure to attend three separate appointments. (Exhibit A, p. 160)
 - l. During a therapy session in ██████ 2021, Petitioner noted that he “still [had] a lot of confusion with [his] life and [was] not comfortable with how [he] think[s] about and dwell[s] on things. Also not doing things that bring good memories or that [he] enjoys.” (Exhibit A, pp. 102-106)
 - m. As of August 2021, Petitioner was using a portable neuromodulation stimulator and Arneo in his home as part of his treatment and therapy for his TBI. (Exhibit A, pp. 74-75)
12. Around the time of application, as well as the hearing, Petitioner was █ years of age, █ foot █ inches, and approximately █ pounds. (Exhibit A, pp. 5, 54)
 13. At the hearing, Petitioner’s Michigan Department of Health and Human Services (MDHHS) case worker noted that he has regular, at least monthly, contact with Petitioner, that Petitioner is able to research different things, express his beliefs about his eligibility, advocates for himself, and appears to understand all communications from the case worker. However, Petitioner noted that his mother is a retired MDHHS worker and he would often have her clarify information for him.
 14. Petitioner testified that his highest level of education is a bachelor’s degree in political science, is able to read, write, and understand English with some struggle due to difficulties with fine motor control and vision, and can add and subtract but struggles with multiplication and division.
 15. Documents provided for the hearing reveal that Petitioner has a master’s degree in economics which was completed in May of 2011. (Exhibit A, pp. 88, 260)
 16. At the hearing, Petitioner testified that he has hearing and vision problems which enable him to receive services from the Michigan Bureau of Services for Blind Persons, but no documentation was provided to support Petitioner’s assertion.
 17. Petitioner’s work history includes a bagel shop from 2005 through 2006, and work/study in education from 2007 through 2008, and landscape services in 2009. Petitioner was terminated from one of his work/study positions due to an inability to work with others and not getting along with his supervisor. (Exhibit A, pp. 259, 261)
 18. Petitioner has a pending appeal of a Social Security Administration disability claim denial.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services

Bridges Eligibility Manual (BEM), and Department of Health and Human Services Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

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) 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. 1-3; 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 (RFC) to perform past relevant work; and (5) has the RFC 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 has not worked since 2009, Petitioner cannot be assessed as not disabled at Step 1, and the evaluation 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).

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 Servs*, 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 reviewed and, in consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, it is found to be 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 SDA 90-day duration requirement, the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 11.18 (traumatic brain injury), 1.0 (musculoskeletal disorders-adult), 2.02 (loss of central visual acuity), 2.03 (contraction of the visual field in the better eye), 2.04 (loss of visual efficiency, or visual impairment, in the better eye), 12.02 (neurocognitive disorders), 12.04 (depressive, bipolar, and related disorders), and 12.06 (anxiety and obsessive-compulsive disorders) were considered. The medical evidence presented does not show that Petitioner's impairments meet or equal the required level of severity of any of the listings in Appendix 1 to be considered as disabling without further consideration. Therefore, Petitioner is not disabled under Step 3 and the analysis continues to Step 4.

Residual Functional Capacity (RFC)

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 RFC is assessed. 20 CFR 416.920(a)(4); 20 CFR 416.945. RFC is the most an individual can do, based on all relevant evidence, despite the limitations from the impairment(s), including those that are not severe, and takes into consideration an individual's ability to meet the physical, mental, sensory, and other requirements of work. 20 CFR 416.945(a)(1), (4); 20 CFR 416.945(e).

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

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

carrying, pushing, and pulling), the individual is considered to have only exertional limitations. 20 CFR 416.969a(b).

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

If an individual has limitations or restrictions that affect the ability to meet demands of jobs *other than* strength, or exertional, demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi). For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). Where the evidence establishes a medically determinable mental impairment, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. The effect on the overall degree of functionality is evaluated under four broad functional areas, assessing the ability to (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). A five-point scale is used to rate the degree of limitation in each area: 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).

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.

In this case, Petitioner alleges exertional and nonexertional limitations due to his medical conditions. Although Petitioner identified back pain as an area of concern and he has received a diagnosis of cervical spinal stenosis, neither Petitioner nor the medical records identify any limitations presented by this diagnosis except general statements that his condition is worsened by physical activity, bending, twisting, stress, light touch, prolonged sitting, riding in a car for long distances, prolonged standing, and climbing stairs. These notations are made in conjunction with a notation that Petitioner has an ataxic gait but does not use assistive devices. There was no indication in any of the evidence presented, documents or testimony, of how much physical activity affects Petitioner's conditions, how long he can sit, how often he can bend or twist, or any other information to further clarify his ability or limitations. With respect to Petitioner's exertional limitations, and given the limited evidence, Petitioner maintains at least the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a).

Turning to Petitioner's nonexertional limitations, Petitioner testified that he has difficulty with reading, and sight generally, which allows him to receive services from the Michigan Bureau of Service for Blind Persons; however, Petitioner did not provide any documentation to support his claims of poor vision except generalized statements made to his doctor. He also testified that he has trouble with his memory and cannot remember things for more than 15 seconds unless he writes it down which affects his ability to concentrate and understand tasks at hand. However, Petitioner's caseworker testified that Petitioner always seemed to understand their frequent communications and advocated for himself in eligibility for different programs. When asked about his communications with his caseworker, Petitioner noted that he never needed assistance with calls with his caseworker, that he took notes during the calls, and when he had trouble understanding his notes, he followed up with his mother who is a retired MDHHS worker. In addition, while Petitioner does receive home health services to aid with cooking and chores, Petitioner noted during an appointment with the Family Outreach Center in July 2021, one month prior to his application for SDA benefits, that he "still keep[s] up on bills, to do lists, analytical. [He] think[s] rather conservatively. [He] plan[s] ahead, but that's harder for [him] now. [He is] still generally handy with car repairs. [He is] honest, care[s] more about people, [is] more patient than earlier years. [He is] more engaging. [He is] grateful for what [he has] gratitude for." Finally, Petitioner completed two neuropsychological evaluations in 2020, both examinations were inconclusive because reliability metrics were not met which suggested Petitioner did not put forth his best effort during the exams.

Petitioner's statements at the Center in addition to his communications with his caseworker and insufficient effort during the neuropsychological evaluations suggest Petitioner's difficulties with his memory are not as severe as indicated by his testimony.

The medical records do not support Petitioner's testimony regarding limitations. While he may have some difficulty interacting with others, he personally noted that his ability is much improved after his TBI as compared to before. Furthermore, he is limited to some degree by his memory affecting his ability to concentrate, persist, or maintain pace as well as adapt or manage himself, but the medical evidence does not support a significant limitation. Based on the entire record, including Petitioner's testimony, Petitioner has a nonexertional RFC resulting in mild limitations in his ability to interact with others; moderate limitations in his ability to concentrate, persist, or maintain pace; and moderate limitations in his ability to adapt or manage himself.

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 past relevant work experience from the past 15 years includes landscaping, a bagel shop, and education. This work experience requires at a minimum light RFC. Petitioner has an exertional limit which is at least sedentary. In addition, Petitioner is experiencing mild limitations in his ability to interact with others, and moderate limitations in his ability to concentrate, persist, or maintain pace as well as adapt and manage himself. Therefore, Petitioner is unable to perform past work.

Step 5

If an individual is incapable of performing past relevant work, Step 5 requires an assessment of the individual's RFC and age, education, and work experience to determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v); 20 CFR 416.920(c). If the individual can adjust to other work, then there is no disability; if the individual cannot adjust to other work, then there is a disability. 20 CFR 416.920(a)(4)(v).

At this point in the analysis, the burden shifts from Petitioner to DHHS 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, 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). 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 at the time of hearing, and, thus, considered to be a younger age individual (aged 18-44 years old) for purposes of Appendix 2. He completed a bachelor's degree in political science and a master's degree in economics. He has a work history which includes semi-skilled transferable work. 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. Based solely on his exertional RFC, the Medical-Vocational Guidelines, 201.29, result in a finding that Petitioner is not disabled. Petitioner also has nonexertional limitations, with a nonexertional RFC that results in mild limitations in his ability to interact with others; moderate limitations in his ability to concentrate, persist, or maintain pace; and moderate limitations in his ability to adapt or manage himself. These limitations are not significant enough to preclude Petitioner from engaging in other forms of work. See SSR 83-14. Therefore, Petitioner is not disabled at Step 5.

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.

AM/mp



Amanda M. T. Marler
Administrative Law Judge

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

Email Recipients:

MDHHS-Kent-Hearings
L. Karadsheh
MOAHR
BSC3

First-Class Mail Recipients:

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

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

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