



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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ACTING DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: January 11, 2024
MOAHR Docket No.: 23-007839
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

On October 26, 2023, Petitioner, [REDACTED] requested a hearing to dispute a State Disability Assistance (SDA) denial. As a result, a hearing was scheduled to be held on January 4, 2024, pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and 45 CFR 205.10. After due notice, a hearing was held via teleconference on January 4, 2024. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department) had Amber Gibson, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 265-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

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] 2023, Petitioner applied for cash assistance on the basis of a disability (Exhibit A, pp. 4-9).
2. On October 17, 2023, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 11-12).

3. On October 24, 2023, the Department sent Petitioner a Notice of Case Action to notify Petitioner that her application for cash assistance was denied based on DDS's finding of no disability.
4. On October 26, 2023, the Department received Petitioner's timely written request for hearing (Exhibit A, p. 3).
5. Petitioner is alleging disabling impairments due to bipolar disorder (BPD), major depressive disorder (MDD), post-traumatic stress disorder (PTSD), generalized anxiety disorder (GAD), memory loss, carpal tunnel syndrome (CTS), and back pain.
6. As of the hearing date, Petitioner was [REDACTED] years old with an [REDACTED] 1971, birthdate; she was [REDACTED] and weighed [REDACTED] pounds. Petitioner was left-handed.
7. Petitioner's highest level of education is 12th grade. Petitioner received a high school diploma. Petitioner has reported employment history of working as a housekeeper, laborer, and a grocery picker. Petitioner has reportedly not been employed since the COVID-19 pandemic began in [REDACTED] 2020.
8. The medical record reflects the following:
 - a. On [REDACTED], 2022, Petitioner visited Community Mental Health for an initial assessment. Petitioner reported an increase in anxiety and depressive symptoms, and Petitioner reported that her symptoms have had a significant impact on her activities of daily living. The diagnoses listed were anxiety disorder, PTSD, and depression. The report noted that Petitioner would benefit from therapy services, and Petitioner was referred to Waverly Wellness for therapy. (Exhibit A, pp. 161-185)
 - b. On [REDACTED] 2022, Petitioner had an office visit with Lansing Neurosurgery as a follow-up for her intracranial aneurysm. It was noted that Petitioner's aneurysm was identified during trauma workup following a motor vehicle accident. Petitioner complained of intermittent sinus HA and having pain and pressure at the top of her head since her recent MRA. Petitioner reported feeling more forgetful and having vision problems. Petitioner was referred for surgery. (Exhibit A, pp. 119-121)
 - c. On [REDACTED], 2022, Petitioner had an office visit with Dr. Gulick. It was noted that the reason for the visit was new patient evaluation. Petitioner complained of back pain. Petitioner reported that she takes Vistaril, Zoloft, atorvastatin, vitamin D, and aspirin. Petitioner reported a history of PTSD, OCD, anxiety, depression, bipolar, and aneurysm. The diagnoses noted were low back pain and PTSD. It was noted that Petitioner wanted disability paperwork filled out, and the office noted that it could not fill out the paperwork without past medical records. The care plan was noted as labs ordered, continue medications, and follow up with psychiatry. (Exhibit A, pp. 250-252)

- d. On [REDACTED], 2022, Petitioner had surgery for a right transradial cervical cerebral angiogram with TR band placement. (Exhibit A, pp. 123-134)
- e. On [REDACTED], 2022, Petitioner had a telephone visit with Dr. Gulick. It was noted that the reason for the visit was follow-up for labs. Labs were done on [REDACTED], 2022, and the results were HDL 30, cholesterol 173, TG 387, and LDL 66. The following medications were noted: vitamin D3 50 mcg capsule 1x daily, hydroxyzine NCL 50 mg tablet, sertraline 25 mg tablet 1x daily, aspirin 325 mg tablet 1x daily, and atorvastatin 10 mg tablet 1x daily. The diagnosis noted was mixed hyperlipidemia. The care plan was noted as dietary changes, increase physical activity, add fenofibrate, and continue atorvastatin. (Exhibit A, pp. 248-249)
- f. On [REDACTED] 2022, Petitioner had an office visit with Dr. Gulick. It was noted that the reason for the visit was referral and discuss ESA. Petitioner complained of memory problems, Petitioner reported that she saw an ENT who found a mass in her throat. The following medications were noted: fenofibrate micronized 134 mg capsule 1x daily, vitamin D3 50 mcg capsule 1x daily, hydroxyzine NCL 50 mg tablet, sertraline 25 mg tablet 1x daily, aspirin 325 mg tablet 1x daily, and atorvastatin 10 mg tablet 1x daily. The diagnoses noted were PTSD and other amnesia. The care plan was noted as continue medications, follow up with psychiatry, referral to neurology, and letter for support animal. A letter to recommend that Petitioner have an emotional support animal for her PTSD was issued. (Exhibit A, pp. 245-247)
- g. On [REDACTED] 2022, Petitioner had an office visit with Lansing Neurosurgery as a follow-up for her intracranial aneurysm. Petitioner complained of memory loss. It was noted that a follow-up angiogram was performed in [REDACTED] 2022, and it demonstrated no residual. It was noted that a follow up MRI was performed in [REDACTED] 2022, and it did not show any significant changes from the MRI performed in [REDACTED] 2021. It recommended to have an MRA and MRI performed in two years for follow-up. It also recommended addressing life stressors, smoking cessation and counseling for marital and behavioral issues. (Exhibit A, pp. 116-118)
- h. On [REDACTED] 2023, Petitioner had an office visit with Dr. Gulick. It was noted that the reason for the visit was that Petitioner was out of fenofibrate. Petitioner complained of pain in right thumb, Petitioner reported that she had been told she had tennis elbow in her left elbow, Petitioner reported that she is seeing an eye doctor, Petitioner reported having anxiety, and Petitioner requested a referral to an allergist. The following medications were noted: fenofibrate micronized 134 mg capsule 1x daily, vitamin D3 50 mcg capsule 1x daily, hydroxyzine NCL 50 mg tablet, sertraline 25 mg tablet 1x daily, aspirin 325 mg tablet 1x daily, and atorvastatin 10 mg tablet 1x daily. The diagnoses noted were mixed hyperlipidemia, paresthesia of skin, generalized anxiety disorder, and allergic rhinitis. The care plan was noted as dietary changes recommended, increased

physical activity recommended, labs, EMG, referral to psychologist, and referral to allergist. (Exhibit A, pp. 242-244)

- i. On [REDACTED], 2023, Petitioner had an office visit with Allergy and Asthma Clinic of East Lansing. Petitioner complained of nasal congestion, hoarseness, runny nose, itchy skin, and itchy eyes. Petitioner reported that she has asthma, and she experiences shortness of breath with activity or when upset. Petitioner reported allergic reactions to consuming seafood and bee stings. It was noted that Petitioner requested an EpiPen. The diagnoses noted were moderate persistent asthma, other allergic rhinitis, allergic rhinitis due to pollen, allergy to seafood, and bee allergy status. Petitioner's care plan was noted to avoid exposure to irritants, start cetirizine 10 mg 1x daily, montelukast 10 mg 1x daily, Flonase one spray int each nostril 2x daily, Flovent HFA 220 mcg two puffs 2x daily, and continue albuterol HFA 1-2 puffs every 4-6 hours as needed. The care plan recommended a reevaluation in three months. (Exhibit A, pp. 260-263)
- j. On [REDACTED], 2023, Petitioner had a mammogram for a mass in her right breast. The report noted, for the right breast, that there was no significant interval change, and no significant masses, calcifications, or architectural distortion. The report noted, for the left breast, that there was no significant interval change, and no significant masses, calcifications, or architectural distortion. The exam determined that there was no mammographic evidence of malignancy. (Exam A, pp. 143-145).
- k. On [REDACTED] 29, 2023, Michigan Medical Consultants evaluated Petitioner through an internal medical exam. The neurologic and orthopedic supplemental report notes that Petitioner was diagnosed with an intracerebral aneurysm in 2021, Petitioner reported a history of chronic bilateral elbow pain and carpal tunnel syndrome, and Petitioner underwent carpal tunnel syndrome release in [REDACTED] 2023. The report found that Petitioner was able to perform all basic physical activities such as sitting, standing, bending, carrying, pushing, pulling, and climbing stairs. The report concluded that, with respect to the aneurysm, Petitioner does not have any focal neurological deficits, her only residual has been complaints of visual migraines. The report concluded that, with respect to the bilateral arm and hand condition, Petitioner does not have findings of active carpal tunnel syndrome and has well preserved range of motion to the wrists, Petitioner has mild epicondylitis on the left side, Petitioner has diminished grip strength to both hands and has findings of synovial thickening of the CMC joints, underlying degeneration cannot be ruled out, Petitioner's pincer grasp is normal, Petitioner is able to perform manipulative tasks, and Petitioner does not appear to be actively declining. (Exhibit A, pp. 62-68)
- l. On [REDACTED] 2023, Comprehensive Psychological Services evaluated Petitioner through a formal mental status exam and a clinical interview. The psychological evaluation found that Petitioner's mental impairments were rated as follows: (i) understand, remember, apply information (remember locations,

follow simple/complex instructions): simple – mild; complex – moderate to marked; (ii) concentration/persistence/pace (carry out simple/detailed instructions, sustain routine, make simple work-related decisions, attendance, working a full day without rest periods): moderate to marked; (iii) social interaction (general public, request assistance, respond to criticism, socially appropriate behavior, asking for help when needed): moderate; (iv) adapt or manage oneself (changes in work setting, travel to unfamiliar places/public transportation, set realistic goals): moderate to marked. The psychological evaluation stated, “[Petitioner’s] physician will need to offer an opinion regarding her level of impairment to do work related activities as a result of medical problems.” The diagnostic impressions were PTSD, GAD, and major depressive disorder. The prognosis was noted as poor. (Exhibit A, pp. 56-59)

9. Petitioner has a pending disability claim with the Social Security Administration.

CONCLUSIONS OF LAW

Department policies are contained in DHHS Bridges Administrative Manual (BAM), DHHS Bridges Eligibility Manual (BEM), and DHHS Reference Tables Manual (RFT).

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

Petitioner applied for cash assistance alleging a disability. A disabled person is eligible for SDA. BEM 261 (April 1, 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 benefits based on disability or blindness. *Id.* at 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. *Id.* at pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

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

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 engaged in SGA during the period at issue. Therefore, 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 416.922(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.

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 duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 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

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

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

Limitations can be exertional, non-exertional, or a combination of both. 20 CFR 416.969a. If an 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 non-exertional 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.

Petitioner alleged non-exertional limitations. Based on the evidence presented, Petitioner has confirmed diagnoses of anxiety, PTSD, and depression. These conditions could reasonably be expected to cause difficulty performing basic work activities. Thus, the evidence establishes that Petitioner has a medically determinable mental impairment. Therefore, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. According to Petitioner's [REDACTED] 2023, psychological evaluation, Petitioner's degree of functional limitation was rated as follows: (i) understand, remember, apply information: simple – mild; complex – moderate to marked; (ii) social interaction: moderate; (iii) concentration/persistence/pace: moderate to marked; and (iv) adapt or manage oneself: moderate to marked. Based on Petitioner's degree of functional limitation, Petitioner has the residual functional capacity to perform some work.

Petitioner also alleged exertional limitations. Based on the evidence presented, Petitioner has confirmed diagnoses of back pain, elbow pain, and carpal tunnel syndrome. Petitioner testified that her pain makes it uncomfortable for her to stand and walk. Petitioner also testified that she has difficulty gripping, grasping, and holding with her hands due to carpal tunnel syndrome in both hands. Thus, the evidence establishes that Petitioner has a medically determinable impairment that could reasonably be expected to produce her alleged symptoms. Petitioner has carpal tunnel syndrome, which could reasonably be expected to cause problems with gripping, grasping, and holding with her hands. Therefore, Petitioner's carpal tunnel syndrome is a medically determinable impairment that could reasonably be expected to produce her alleged symptoms. Petitioner also has back pain, which could reasonably be expected

to cause problems with standing and walking. Therefore, Petitioner's back pain is also a medically determinable impairment that could reasonably be expected to produce her alleged symptoms.

Petitioner's testimony was that she can do very little with her hands due to her carpal tunnel syndrome. The limiting effects of Petitioner's carpal tunnel syndrome as described by Petitioner are inconsistent with the medical records presented. According to Petitioner's [REDACTED] 2023, internal medical exam, Petitioner has well preserved range of motion to the wrists, and Petitioner is able to perform manipulative tasks with her hands. Thus, based on the medical records presented, Petitioner is able to effectively use her hands.

Petitioner's testimony was that she cannot stand or walk for any length of time due to her back pain. The limiting effects of Petitioner's back pain as described by Petitioner are inconsistent with the medical records presented. There were no medical records for treatment of back pain, and Petitioner's [REDACTED] 2023, internal medical exam found that Petitioner was able to perform all basic physical activities. Thus, based on the medical records presented, there is no evidence that Petitioner's back pain limits her physical activity.

With respect to Petitioner's exertional limitations, it is found based on a review of the entire record that Petitioner maintains the physical capacity to perform light work as defined by 20 CFR 416.967(b). Additionally, as discussed above, Petitioner maintains the mental capacity to perform some work with her non-exertional limitations.

Petitioner's RFC is considered at both Steps 4 and 5. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step 4 in analyzing a disability claim requires an assessment of Petitioner's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work is work that has been performed by Petitioner (as actually performed by Petitioner or as generally performed in the national economy) within the past 15 years that was SGA and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1) and (2). An individual who has the RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

Petitioner's work history in the 15 years prior to her application consists of work as a housekeeper, laborer, and grocery picker. Petitioner performed work in each of these positions on a full-time basis long enough to learn the positions.

With respect to Petitioner's non-exertional limitations, Petitioner has the residual functional capacity to meet the mental demands of her past relevant work. Petitioner's past work has been the type of work that typically involves simple tasks and

instructions, that could be performed independently with only a minimal need to work with others, that is typically routine, and that typically only requires adaption to minor changes. Based on Petitioner's degree of functional limitation, Petitioner has the mental residual functional capacity to perform this type of work.

With respect to Petitioner's exertional limitations, Petitioner has the residual functional capacity to meet the physical demands of her past relevant work. Petitioner's past work has been unskilled work that typically involves standing up to eight hours and lifting up to 10 pounds regularly. Petitioner's past work has required light physical exertion. Based on Petitioner's physical capacity to perform light work, Petitioner has the physical residual functional capacity to perform this type of work.


Since Petitioner has the residual functional capacity to meet the physical and mental demands of her past relevant work, Petitioner is not disabled at Step 4 and the assessment ends.

DECISION AND ORDER

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.

Accordingly, DHHS's determination is **AFFIRMED**.

JK/ml



Jeffrey Kemm

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

Via Electronic Mail:

DHHS
Amber Gibson
Ingham County DHHS
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MDHHS-Ingham-Hearings@michigan.gov

Interested Parties
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Via First Class Mail:

Petitioner
[REDACTED]
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