[redacted]

Date Mailed: April 25, 2024
MOAHR Docket No.: 24-002075
Agency No.: [redacted]
Petitioner: [redacted]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; and 45 CFR 205.10. After due notice, telephone hearing was held on March 27, 2024, from Lansing, Michigan. Petitioner was represented by herself. Brad Reno represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly determine that Petitioner did not meet the disability standard for **State Disability Assistance (SDA)**?

FINDINGS OF FACT

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

1. On December [redacted] 2023, Petitioner submitted an application for State Disability Assistance (SDA) benefits alleging disability.

2. On February [redacted] 2024, the Department's Disability Determination Service (DDS) determined that Petitioner did not meet the disability standard for State Disability Assistance (SDA) because it determined that she is capable of past relevant work. Exhibit A, p 8.

3. On February [redacted] 2024, the Department sent Petitioner notice that it had denied the application for assistance. Exhibit A, p 166.

4. On February [redacted] 2024, the Department received Petitioner's hearing request, protesting the denial of disability benefits. Exhibit A, pp 4-5.

5. On January 31, 2024, Petitioner applied for federal Supplemental Security Income (SSI) benefits at the Social Security Administration (SSA). Exhibit A, p 19.

6. The Social Security Administration (SSA) denied Petitioner's federal Supplemental Security Income (SSI) application and Petitioner reported that an SSI appeal is pending.

7. Petitioner was a [redacted]year-old woman on the date she applied for State Disability Assistance (SDA) benefits whose birth date is July [redacted].

8. Petitioner is [redacted] tall and weighs [redacted] pounds.

9. Petitioner is a high school graduate and attended some college.

10. Petitioner is able to read and write and does have basic math skills.

11. Petitioner was not engaged in substantial gainful activity at any time relevant to this matter.

12. Petitioner has past relevant work experience as a cashier. Exhibit A, p 49.

13. Petitioner's disability claim is based on hypertrophic cardiomyopathy and asthma.

14. Petitioner has a history of undergoing mitral valve replacement and the installation of a pacemaker. Exhibit A, p 151.

15. On July [redacted] 2023, Petitioner reported having no chest pain, no edema, no palpitations, no syncope, no orthopnea, and no paroxysmal nocturnal dyspnea. Exhibit A, p 150.

16. Petitioner has been diagnosed with intermittent asthma that is well controlled. Exhibit A, p 150.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, Rule 400.901 - 400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. Mich Admin Code, R 400.903. Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (January 1, 2020), pp 1-44.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance and State Disability Assistance (SDA) programs. Under SSI, disability is defined as:

> …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.

An individual is disabled for the purposes of establishing eligibility for SDA benefits when the individual meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. 2023 PA 119, Sec. 604.

Petitioner has the burden of proof of establishing that she has a severely restrictive physical or mental impairment that has lasted or is expected to last for 90 days.

When determining disability, the federal regulations require that several considerations be analyzed in sequential order.

STEP 1

Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is not disabled.

At step 1, a determination is made on whether Petitioner is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.l572(a) and 4l6.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.l572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, she is not disabled regardless of how severe her physical or mental impairments are and regardless of her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

Petitioner testified that she has not been employed since October of 2023 and is not currently engaged in substantial gainful activity, which was not disputed by the Department during the hearing. Therefore, this Administrative Law Judge finds that Petitioner is not engaged in substantial gainful activity and is not disqualified from receiving disability at Step 1.

STEP 2

Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is not disabled.

At step two, a determination is made whether Petitioner has a medically determinable impairment that is "severe" or a combination of impairments that is "severe." An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921. If Petitioner does not have a severe medically determinable impairment or combination of impairments, she is not disabled. If Petitioner has a severe impairment or combination of impairments, the analysis proceeds to the third step.

Petitioner is a [redacted]year-old woman at the time she submitted her application that [redacted] tall and weighs [redacted] pounds. Petitioner alleges disability due to hypertrophic cardiomyopathy and asthma. The hearing record supports a finding that she has a history of undergoing cardiac mitral valve replacement and the installation of a pacemaker. On July [redacted] 2023, Petitioner reported having no chest pain, no edema, no palpitations, no syncope, no orthopnea, and no paroxysmal nocturnal dyspnea. Petitioner has been diagnosed with asthma that is well controlled.

The evidence on the record indicates that Petitioner's heart condition is a significant impairment to her ability to sustain work related tasks.

This Administrative Law Judge finds a physical impairment that has more than a de minimus effect on Petitioner's ability to perform work activities. Petitioner's impairments have lasted continuously or are expected to last for twelve months. Petitioner is not disqualified from receiving disability benefits at step 2 and the analysis will continue.

STEP 3

Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4.

At step three, a determination is made whether Petitioner's impairment or combination of impairments is of a severity to meet or medically equal the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If Petitioner'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 404.1509 and 416.909), Petitioner is disabled. If it does not, the analysis proceeds to the next step.

Petitioner's impairment failed to meet the listing for hypertrophic cardiomyopathy under section 4.00 Cardiovascular System or Section 11.04 Vascular insult to the brain.

The medical evidence of Petitioner's condition does not give rise to a finding that she would meet a statutory listing in federal code of regulations 20 CFR Part 404, Subpart P, Appendix 1.

STEP 4

Can the client do the former work that she performed within the last 15 years? If yes, the client is not disabled.

Before considering step four of the sequential evaluation process, a determination is made of Petitioner's residual functional capacity (20 CFR 404.1520(e) and 4l6.920(c)). An individual's residual functional capacity is her ability to do physical and mental work activities on a sustained basis despite limitations from her impairments. In making this finding, the undersigned must consider all of Petitioner's impairments, including impairments that are not severe (20 CFR 404.l520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, a determination is made on whether Petitioner has the residual functional capacity to perform the requirements of her past relevant work (20 CFR 404.l520(f) and 416.920(f)). The term past relevant work means work performed (either as Petitioner actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for Petitioner to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If Petitioner has the residual functional capacity to do her past relevant work, Petitioner is not disabled. If Petitioner is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium, and heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor... 20 CFR 416.967.

> Light work. 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 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.... 20 CFR 416.967(b).

To determine the skills required in the national economy of work you are able to do, occupations are classified as unskilled, semi-skilled, and skilled. These terms have the same meaning as defined in. 20 CFR 416.968.

> Unskilled work. Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength. For example, we consider jobs unskilled if the primary work duties are handling, feeding and offbearing (that is, placing or removing materials from machines which are automatic or operated by others), or machine tending, and a person can usually learn to do the job in 30 days, and little specific vocational preparation and judgment are needed. A person does not gain work skills by doing unskilled jobs. 20 CFR 416.968(a).

After careful consideration of the entire record, this Administrative Law Judge finds that Petitioner has the residual functional capacity to perform light work as defined in 20 CFR 404.1567 and 416.967.

Petitioner has past relevant work experience as a cashier.

There is no evidence upon which this Administrative Law Judge could base a finding that Petitioner is unable to perform work substantially similar to work performed in the past.

STEP 5

At Step 5, the burden of proof shifts to the Department to establish that Petitioner has the Residual Functional Capacity (RFC) for Substantial Gainful Activity.

Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, client is not disabled.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), a determination is made whether Petitioner is able to do any other work considering her residual functional capacity, age, education, and work experience. If Petitioner is able to do other work, she is not disabled. If Petitioner is not able to do other work and meets the duration requirement, she is disabled.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the national economy. Physical demands, mental demands, sensory requirements, and other functions will be evaluated.... 20 CFR 416.945(a).

The objective medical evidence indicates that Petitioner has the residual functional capacity to perform some other less strenuous tasks than in her prior employment and that she is physically able to do less strenuous tasks if demanded of her. Petitioner's testimony as to her limitations indicates that she should be able to perform light work.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969.

Petitioner is [redacted] years-old, a person closely approaching advanced age, 50-54, with a high school education and above, and a history of unskilled work. Based on the objective medical evidence of record Petitioner has the residual functional capacity to perform light work. State Disability Assistance (SDA) is denied using Vocational Rule 202.13 as a guideline.

The Department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. Department of Human Services Bridges Eligibility Manual (BEM) 261 (April 1, 2017), pp 1-8. Because Petitioner does not meet the definition of disabled under a Medicaid program and because the evidence of record does not establish that Petitioner is unable to work for a period exceeding 90 days, Petitioner does not meet the disability criteria for State Disability Assistance benefits.

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 State Disability Assistance (SDA) benefits.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.

KS/dm

Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings and Rules (MOAHR)

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
Janice Collins
Genesee County DHHS Union St
District Office
MDHHS-Genesee-UnionSt-Hearings@michigan.gov

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BSC2HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner
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