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GOVERNOR

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

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DIRECTOR

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Date Mailed: June 5, 2024
MOAHR Docket No.: 24-003215
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on May 2, 2024, via teleconference. Petitioner appeared and represented herself. Brad Reno appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' proposed exhibits were admitted into evidence as MDHHS Exhibit A, pp. 1-550, and Exhibit B, pp. 1-467.

During the hearing, the parties agreed to extend the record for the admission of additional documents and waive the timeliness standard for the issuance of this decision. MDHHS submitted an additional document that was entered into evidence as MDHHS Exhibit C, pp. 1-2. The matter is now before the undersigned for a final determination based on the evidence presented.

ISSUE

Did MDHHS properly determine that Petitioner was not disabled for purposes of State Disability Assistance (SDA)?

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 ██████████, 2023, Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On March 11, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program because she was capable of performing other work (Exhibit A, pp. 18-19).
3. On March 12, 2024, MDHHS sent Petitioner a Notice of Case Action denying the application for SDA because MRT found Petitioner not disabled (Exhibit B, p. 464).

4. On March 18, 2024, MDHHS received Petitioner's timely written request for hearing (Exhibit A, p. 4).
5. The medical record reflects the following:
 - a. In 2015, Petitioner experienced a seizure while working (Exhibit A, p. 100).
 - b. In 2017, Petitioner experienced a seizure after leaving work (Exhibit A, p. 100).
 - c. On [REDACTED] 2019, [REDACTED], 2020, [REDACTED] 2020, [REDACTED] 2021, and [REDACTED] 2023, [REDACTED] examined Petitioner and denoted an abnormal electrocardiogram (EKG), presence of an automatic cardiac defibrillator, chronic heart failure, cerebral infraction, essential (primary) hypertension, Type 2 Diabetes mellitus without complications and obesity (Exhibit A, pp. 343-370).
 - d. On [REDACTED] 2022, Petitioner attended an office visit at [REDACTED] [REDACTED] complaining of an asthma attack/panic attack, among other ailments (Exhibit A, pp. 401-402).
 - e. On [REDACTED] 2023, Petitioner's physician, Gary Roome, signed a Medical Needs Form, which Petitioner provided to MDHHS (Exhibit C, p. 1). The Form indicated that Petitioner had a seizure disorder, back pain, and knee pain (Exhibit C, p. 1). Dr. Roome concluded that Petitioner could not work at her usual occupation and could not perform any job (Exhibit C, p. 1). Dr. Roome further concluded that Petitioner could never lift or carry objects less than 10 lbs., 10 lbs., 25 lbs., or 50 lbs. or more (Exhibit C, p. 1). Dr. Roome indicated that Petitioner could stand and or/walk less than 2 hours and sit less than six hours in an 8-hour workday (Exhibit C, p. 1). Dr. Roome concluded that Petitioner required assistance with taking medications, meal preparation, shopping, laundry, and housework (Exhibit C, p. 2).
 - f. On [REDACTED] 2023, Petitioner was examined by [REDACTED] for low-back pain and re-examined on [REDACTED] 2023 after treatment (Exhibit A, p. 291). The treating clinician noted severe and complete activity limitations, including an inability to lift objects over five pounds and an inability to walk more than 100 yards without symptoms (Exhibit A, p. 291).
 - g. On [REDACTED] 2023, Petitioner attended an office visit [REDACTED] [REDACTED] complaining of shortness of breath and joint pain, among other ailments (Exhibit A, p. 395).
 - h. On [REDACTED] 2023, [REDACTED], 2023 and [REDACTED] 2023, Petitioner attended office visits with [REDACTED] (Exhibit A, p. 319-329). The diagnoses included Type 2 diabetes mellitus with hyperglycemia and obesity (Exhibit A, p. 327).

- i. On [REDACTED], 2023, Petitioner went to [REDACTED] due to chest pain, fatigue, back and knee pain. The notes indicate that Petitioner could not sit or stand at all, could not lift anything or handle or finger at all (Exhibit A, p. 35).
 - j. On [REDACTED] 2023, [REDACTED] examined Petitioner regarding congestive heart failure, diabetes, seizure disorder and back and knee pain (Exhibit A, p. 22). The notes indicated that Petitioner had a pacemaker, was relatively stable from a cardiovascular standpoint, experienced significant weight loss as the result of diabetes, had tenderness over patellar joints and muscles of the lumbar spine. The examiner concluded that she appeared to have chronic lumbosacral strain and bilateral patellar chondromalacia.
6. On the date of the hearing, Petitioner was [REDACTED] years old with a September [REDACTED], [REDACTED] birth date; she is [REDACTED] in height and weighs approximately [REDACTED] pounds.
 7. Petitioner is a high school graduate and received special education through an Individualized Education Plain (IEP) due to a learning disability (Exhibit A, p. 129).
 8. At the time of application, Petitioner was not employed.
 9. Petitioner has an employment history of work as a Laborer.
 10. Petitioner alleged disabling impairments due to various medical conditions, including diabetes mellitus, pacemaker, congestive heart failure, seizures, nerve damage, fibromyalgia, anemia, migraines, high blood pressure, stokes, knee joint pain.
 11. Petitioner has a pending disability claim with the Social Security Administration.

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. MDHHS 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-P) 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 that has lasted or is expected to last for a continuous

period of 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. 1-2; 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. 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 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. RESCINDED BY SSR 16-3.

Here, Petitioner alleged disabling impairments due to various medical conditions, including diabetes mellitus, pacemaker, congestive heart failure, seizures, nerve damage, fibromyalgia, anemia, migraines, high blood pressure, stokes, knee joint pain. Petitioner reported that she can sit and stand for 10 minutes at a time, walk for 10 minutes, and lift 10 pounds (Exhibit A, p. 272). Petitioner reported that she suffered migraines and cluster headaches on a daily basis, which caused nausea, blurred vision, and vomiting (Exhibit A, p. 49).

On [REDACTED] 2023, Petitioner was examined by a physician at [REDACTED] [REDACTED] at MDHHS' request (Exhibit A, p. 271-276). The doctor noted that Petitioner had a history of diabetes over the past 30 years; congestive heart failure in 2014; a seizure disorder since she was 8 years old with the last grand mal seizure occurring in 2022; and chronic bilateral knee and back pain (Exhibit A, pp. 271-272).

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence is 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 4.02 (chronic heart failure); 11.02 (epilepsy); 11.14 (peripheral neuropathy); and 11.08 (traumatic brain injury) 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, 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).

Although Petitioner alleged non-exertional limitations due to lapses in memory and anxiety, the medial records are insufficient to support these claims.

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.

Regarding Petitioner's RFC, DDS determined that Petitioner had exertional limitations, that she could occasionally lift and/or carry 20 pounds, could frequently lift and/or carry ten pounds, had an unlimited ability to push and/or pull in upper extremities, had unlimited ability to push and or pull in lower extremities, could stand or walk about six hours in an eight-hour workday, and could sit about six hours in an eight-hour workday (Exhibit A, pp. 33-34). DDS further determined that Petitioner could occasionally climb ramps/stairs, climb ladders/ropes/scaffolds, balance, stoop, kneel, and crawl (Exhibit A, p. 34). DDS noted no manipulative, visual or communicative limitations (Exhibit A, p. 34). DDS also determined that Petitioner had environmental limitations, and needed to avoid concentrated exposure to extreme hot and cold temperatures, and avoid even moderate exposure to hazards (machinery, heights, etc.) (Exhibit A, p. 34). Based on the seven strength factors, DDS found that Petitioner was capable of light work (Exhibit A, p. 36).

Petitioner disputed DDS' assessment and alleged severe exertional limitations caused by her ailments. At the hearing, Petitioner testified that she moves slowly if at all due to her back and knee pain and that she has problems with her hands associated with carpal tunnel. Petitioner reported extreme lethargy that is caused by her ailments and/or is a side effect of the medications that she takes. Petitioner testified that she cannot squat, bend at the waist, reach or kneel. Petitioner testified that she can stand for a maximum of 5 minutes and has a limited ability to walk. She also testified that she has a limited ability to climb stairs, drive a car, prepare meals, bathe and dress herself.

The objective medical evidence supports Petitioner's claims regarding her difficulty standing and walking. Petitioner was examined by Horizon Physical Therapy for low-back pain on August 21, 2023, and re-examined on November 3, 2023 after completing treatment sessions (Exhibit A, p. 291). Even after several treatment sessions, the treating clinician noted severe problems walking medium distances and concluded that Petitioner was only able to walk less than 100 yards without symptoms (Exhibit A, p. 291). Additionally, the physical therapist concluded that Petitioner had severe difficulty living medium-weight objects and was only able to lift less than five pounds (Exhibit A, p. 291).

This evidence directly contradicts DDS' findings regarding Petitioner's exertional limitations regarding lifting and carrying, pushing and pulling, standing and/or walking and sitting (Exhibit A, pp. 33-34).

Based on the complete record, Petitioner is not capable of performing light work, which involves lifting 20 pounds at a time or less with frequent lifting or carrying of objects weighing up to ten pounds. Petitioner maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a). However, Petitioner is unable to

perform the full range of sedentary work, and thus, the occupational base is eroded by her additional limitations or restrictions. SSR 96-9p.

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 the application consists of work in factories as a laborer. Petitioner testified that she worked for many years as a factory worker at various places of employment until she could no longer bare the demands of the job. Petitioner's past employment is characterized as requiring light to heavy exertion, depending on the type of factory work. Based on the RFC analysis above, Petitioner's exertional RFC limits her to sedentary work activities. As such, Petitioner is incapable of performing past relevant work. Because Petitioner is unable to perform past relevant work, she cannot be found disabled, or not disabled, at Step 4, and the assessment continues to Step 5.

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 MDHHS 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, 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 ■ years old at the time of hearing, and, thus, considered to be a younger individual (age ■■■■■) for purposes of Appendix 2. She is a ■■■■■ school graduate with a semi-skilled history of work experience that is non-transferrable. 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, however, as referenced above, the occupational base is eroded by additional limitations or restrictions. Thus, based solely on her exertional RFC, the Medical-Vocational Guidelines, result in a finding that Petitioner is not disabled.

However, as referenced above, Petitioner also has non-exertional impairments imposing additional limitations. As a result, and based on the evidence presented, she has a non-exertional RFC imposing moderate limitations on her non-exertional ability to perform basic work activities, with respect to difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching; and difficulty tolerating some physical feature(s) of certain work settings, e.g. cannot tolerate exposure to extreme heat or cold and cannot tolerate exposure to hazards such as machinery or heights.

MDHHS has failed to present evidence of a significant number of jobs in the national and local economy that Petitioner has the vocational qualifications to perform in light of her RFC, age, education, and work experience. Therefore, the evidence is insufficient to establish that Petitioner is able to adjust to other work. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner disabled for purposes of the SDA benefit program.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner **disabled** for purposes of the SDA benefit program.

Accordingly, MDHHS's determination is **REVERSED**. MDHHS IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER.

1. Reprocess Petitioner's [REDACTED], 2023 SDA application to determine if all the other non-medical criteria are satisfied in accordance with Department policy;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified; and
3. Notify Petitioner of its decision in writing.



LJ/pt

Linda Jordan
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

Janice Collins

Genesee County DHHS Union St District Office

125 E. Union St 7th Floor

Flint, MI 48502

MDHHS-Genesee-UnionSt-Hearings@michigan.gov

Interested Parties

BSC2

L. Karadsheh

Via First Class Mail:

Petitioner

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