



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 16, 2022
MOAHR Docket No.: 22-000319
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 telephone hearing was held on March 17, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Brad Reno, Eligibility Specialist and Hearings Facilitator. On March 23, 2022, an Interim Order Extending the Record was issued to allow the parties to provide additional medical evidence by April 18, 2022. By April 18, 2022, the records identified in the order were received and marked and admitted into evidence as Exhibits B, 1, 2, and 3.

ISSUE

Whether the Department properly determined 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 ██████████ 2021, the Department received Petitioner's application for SDA benefits.
2. On November 19, 2021, the Department forwarded Petitioner's medical information to the Disability Determination Service (DDS), formerly known as the Medical Review Team (MRT).
3. On January 18, 2022, DDS indicated that Petitioner was not disabled, capable of performing other work noting that she has severe mental impairments, but that marked limitations were not supported overall by the evidence presented. (Exhibit A, pp. 25, 30)

4. On [REDACTED] 2022, the Department issued a Notice of Case Action to Petitioner advising her that her SDA application was denied because she was not disabled.
5. On the same day, Petitioner requested a hearing disputing the denial of SDA benefit because she was not disabled.
6. Petitioner alleged a disabling impairment due to head injuries, Post-Traumatic Stress Disorder (PTSD), hiatal hernia, diverticulitis, Barrett's esophagus, hearing difficulties, and a mini/transient ischemic attack (TIA) stroke.
7. The medical evidence presented showed as follows:
 - a. No medical records were provided regarding Petitioner's hiatal hernia and an examination in [REDACTED] 2021 showed no evidence of any hernia. (Exhibit 3, p. 7)
 - b. No records of Petitioner's participation in physical therapy were provided.
 - c. No records related to Petitioner's diverticulitis or hearing difficulties were provided.
 - d. In [REDACTED] and [REDACTED] 2021, Petitioner saw her doctor for migraines noting past head traumas. Additional testing through a CT scan and MRI were ordered and she was prescribed ibuprofen and Topamax to manage the pain. (Exhibit B, pp. 201-211)
 - e. On [REDACTED] 2021, Petitioner was admitted to the emergency department for alcohol intoxication and released the next day.
 - f. On [REDACTED] 2021, Petitioner was admitted again to the emergency department and diagnosed with a TIA after alcohol and crack cocaine use. During Petitioner's admission, a CT scan showed no significant diminished perfusion in the bilateral cerebral hemispheres; a CTA of the carotid arteries showed no evidence of high-grade stenosis, occlusion, or aneurysmal dilatation and was otherwise unremarkable. Petitioner's National Institute of Health Stroke Scale score was a four on the day of admission indicating a minor stroke. Upon discharge on [REDACTED] 2022, Petitioner was stable with some tingling, numbness, and pain in her legs which was improving. (Exhibit B, pp. 4-64)
 - g. In [REDACTED] 2021, Petitioner met with her doctor following her hospitalization for alcohol and then the TIA with cocaine and substance use. Petitioner's doctor noted that Petitioner's mental health and substance use were directly connected to Petitioner's loss of her father and then ex-boyfriend. (Exhibit B, p. 195)
 - h. In [REDACTED] 2021, Petitioner had an MRI showing no evidence of cortical dysplasia, cavernomas, or acute infarction, or substrates for seizures.

However, Petitioner had minimal T2 signal in the periventricular white matter and scattered foci of abnormal T2 signal in subcortical white matter most likely related to small vessel ischemic disease. (Exhibit B, p. 361)

- i. In [REDACTED] 2021, Petitioner had a normal awake and sleep EEG. (Exhibit B, p. 360)
- j. In December 2021, Petitioner's doctor noted that she had increased leg edema, difficulty walking, and that Petitioner noted worsening depression and anxiety. Petitioner was walking with a rolling walker but wanted to try using a four-pronged cane because the walker was difficult to maneuver in her home. The doctor referred her to physical therapy for increased mobility, strengthening, and the edema. (Exhibit B, pp. 187-194)
- k. In [REDACTED] 2021, Petitioner was diagnosed with Barrett's esophagus. (Exhibit 3, p. 6)
- l. By March 2022, Petitioner's Barrett's esophageal inflammation was controlled, her reflux was better, and her gastric emptying study was unremarkable. (Exhibit 3, pp. 3-4, 16)
- m. Psychiatric evaluation and progress note records from Petitioner's appointments with Genesee Health System (GHS) indicate that Petitioner began working with GHS in December 2020 when she was anxious and depressed because of housing complications and lack of support. In [REDACTED] 2020, Petitioner had a Global Assessment of Functioning (GAF) score of 49. By April and May of 2021, Petitioner was still experiencing anxiety and depression, but actively looking for housing and working, but was not taking her medication. In June 2021, Petitioner was stressed about work but positive about her housing arrangements. After Petitioner's TIA in July 2021 and through December 2021, Petitioner continued her appointments with GHS and began looking for a new housing arrangement. Throughout all appointments, Petitioner is described by her therapist or case manager as having fair to good insight and judgment, clear speech, cooperative and talkative, with no suicidal or homicidal ideations, and a low to moderate risk to herself or others based upon her medication compliance. In only a handful of appointments the therapist or case manager described Petitioner as emotional or tearful, but those instances were limited to discussions about past trauma, the recent death of her father, and a COVID-19 exposure. By December 2021, Petitioner was considered low-risk due to medication compliance and being future oriented. (Exhibit B, pp. 222-357)
- n. Petitioner has been diagnosed with disruptive mood dysregulation disorder and struggles with day-to-day normal situations. (Exhibit 1, p. 3)

8. At the time of application, Petitioner was 54 years old, 5'3" in height, and weighed about 217 pounds.
9. Petitioner finished an 8th grade education and completed some of the 9th grade. She later tried to obtain her General Education Degree (GED) but was unsuccessful. She has a third grade reading level and can add and subtract but cannot do multiplication or division.
10. Petitioner prepares simple meals, has difficulties with personal care such as showering regularly and cleaning herself after a bowel movement in addition to incontinence at night, can clean her home and do laundry alternating sitting and standing, uses public transportation or gets rides from her daughters, does her grocery shopping, manages her finances, and babysits her four-year-old grandson with her daughter next door and cameras to keep watch over them.
11. Petitioner's mental condition causes her to sweat, have difficulty breathing, whole body shakes, go blank, struggle with her words, make poor decisions, and have difficulty controlling her anger.
12. Petitioner has numbness in her leg and left arm causing difficulties with walking and dropping things.
13. Petitioner was not employed when she filed her application.
14. Petitioner has a work history for the last 15 years which includes the following:
 - a. From 2006 through 2010, Petitioner worked in lead cleaning with a contractor in Flint. She lost this job because she was homeless with a lack of transportation after a head injury.
 - b. In March of 2020, Petitioner began work for McDonald's in Texas, but then the COVID-19 pandemic took hold. She quit this job to come back to Michigan.
 - c. In June of 2021, Petitioner began work at a restaurant as a dishwasher. Her employment ended because of her TIA which occurred while she was at work.

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 engaged in SGA since July 2021, approximately two months before her application for SDA benefits. 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 416.921(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 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 12.15 (trauma- and stressor-related disorders), 12.04 (depressive, bipolar, and related disorders), 12.06 (anxiety and obsessive-compulsive disorders), 12.08 (personality and impulse-control disorders), 5.00 (digestive system), 2.10 (hearing loss not treated with cochlear implantation), 1.00 (musculoskeletal disorders), and 11.18 (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 (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).

In this case, Petitioner alleges both exertional and nonexertional limitations due to her medical conditions. Petitioner testified that she could not walk more than two truck lengths, that she uses a cane, and her doctor noted she used a rolling walker. Petitioner did not identify any limitations with sitting. Petitioner can bend and squat but

has difficulty standing up and sometimes needs assistance. She can use the stairs. Petitioner lives alone, but her daughters live next door. She is able to prepare simple meals and do the dishes by alternating sitting and standing. She bathes herself but needs some prompting from her daughters and has difficulties with cleaning herself after a bowel movement. Petitioner goes shopping with her daughters, does not drive, and babysits her grandson with her daughter next door and cameras watching them.

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's numbness, tingling, and pain in her legs was noted in her medical records at the time of her TIA. Records continuing through December 2021 show that she was continuing to have numbness and difficulty walking and was referred to physical therapy. Petitioner confirmed at the hearing that she has been going to physical therapy and has been working on bending, squatting, walking, and using the stairs to rebuild her strength. Petitioner also noted at the hearing that she has a hernia which limits her ability to lift items no heavier than a gallon of milk. The medical records provided do not show any evidence of a hernia and specifically state the opposite, that examination of her abdomen shows no evidence of herniation. 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 sedentary work as defined by 20 CFR 416.967(a).

The medical records also supported nonexertional limitations. Petitioner has mental health diagnoses including bi-polar disorder as well as disruptive mood dysregulation disorder. In December 2020, Petitioner was assigned a GAF score of 49. Since then, the medical records do not show that she has had her GAF score reevaluated. However, the trend in her records shows that Petitioner's mental health has improved and is occasionally disrupted by significant events such as the death of her father, ex-boyfriend, housing struggles, COVID-19 exposure, as well as her medication compliance. Petitioner is repeatedly described by her therapist or case manager as having fair to good insight and judgment, clear speech, cooperative and talkative, with no suicidal or homicidal ideations, and a low to moderate risk to herself. Despite the medical records, Petitioner sounded emotional and uneasy at the hearing indicating she is afraid to drive, angers easily, and is anxious. After reviewing all of the evidence, Petitioner's mental health conditions affect her ability to interact with others; concentrate, persist, or maintain pace; and adapt or manage herself. Petitioner has a nonexertional RFC resulting in mild limitations in her ability to interact with others; mild limitations in her ability to concentrate, persist, or maintain pace; and moderate limitations in her ability to adapt or manage herself.

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 washing dishes, cleaning, and work at McDonald's. This work experience requires at a minimum light RFC. Petitioner's current exertional RFC limits her to sedentary work. In addition, Petitioner is experiencing moderate limitations in her ability to adapt or manage herself. Given these limitations, Petitioner does not have the RFC to meet the physical or mental demands of past relevant work 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 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 54 years old at the time of application, and, thus, considered to be a closely approaching advanced age individual (aged 50-54) for purposes of Appendix 2. Petitioner completed the 8th grade, has a third grade reading level, and can add and subtract, but cannot do multiplication or division. Finally, Petitioner has a work history which is unskilled. 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 her exertional RFC, the Medical-Vocational Guidelines, 201.09, result in a finding that Petitioner is DISABLED. It is notable that Petitioner also has nonexertional limitations, with a nonexertional RFC that results in mild limitations in her ability to interact with others, concentrate, persist or maintain pace; in addition to moderate limitations in her ability to adapt or manage herself. These limitations also preclude Petitioner from engaging in other forms of work. See SSR 83-14. Therefore, Petitioner is DISABLED at Step 5.

DECISION AND ORDER

Accordingly, the Department's SDA determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Reregister and process Petitioner's [REDACTED], 2021 SDA application to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified; and
3. Review Petitioner's continued SDA eligibility in September 2022.

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-Genesee-UnionSt-Hearings
L. Karadsheh
MOAHR
BSC2

First-Class Mail Recipient:

MI