



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR



Date Mailed: October 4, 2023  
MOAHR Docket No.: 23-004195  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 August 21, 2023. Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Julie Parent, Assistance Payments Worker, and observed by Gina Goss, Family Independence Manager.

At the hearing, Exhibit A was admitted into the record. The record was also extended to allow the parties the opportunity to supplement the existing medical records provided. After the hearing, Petitioner provided two additional documents to supplement his medical records, one three pages in length, the other six. The six-page document was admitted as Exhibit B. The three page document was not admitted into the record as it consisted of what appeared to be text or instant messages between Petitioner and another person by the name of Hannah. The document does not identify who Hannah is, what her title or credentials are, or how the messages are relevant to this matter. Therefore, the three-page document submitted by Petitioner was not admitted as an exhibit and not considered as part of this decision.

### **ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit programs?

### **FINDINGS OF FACT**

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

1. On [REDACTED] 2023, the Department received Petitioner's application for State Disability Assistance (SDA) benefits.

2. On April 20, 2023, the Department received Petitioner's completed Medical Social Questionnaire alleging disability caused by nerve damage, Posterior Reversible Encephalopathy Syndrome (PRES), partial blindness, myofascial, insomnia, fatigue, high blood pressure, concentration and memory retention issues, limited movement in hands, arthritis, shakiness, chronic pain, confusion, GERD, and heart issues.
3. Petitioner has a pending Social Security Administration (SSA) disability appeal.
4. Petitioner's medical information was sent to the Disability Determination Service (DDS) for review.
5. On June 16, 2023, the DDS issued a decision indicating that Petitioner was not disabled and capable of performing other work.
6. On June 20, 2023, the Department issued a Notice of Case Action to Petitioner informing him that his application for SDA had been denied because he was not disabled.
7. On June 26, 2023, the Department received Petitioner's request for hearing disputing the denial of his SDA application.
8. The medical evidence revealed the following:
  - a. On [REDACTED] 2022, Petitioner underwent an MRI at Aspirus Ironwood Hospital Radiology (Radiology). Imaging showed that he had a normal anatomical alignment, normal bone marrow signals, mild facet arthropathy of C3-C4, and small disc bulge with mild spinal stenosis of C5-T3. The Radiologist noted "degenerative changes... without significant spinal canal or foraminal narrowing." (Exhibit A, p. 51)
  - b. On [REDACTED] 2022, Petitioner visited the Aspirus Eye Center (Eye Center) noting that his vision remained the same without need for eye drops, or experiences of flashes or floaters. He was noted to have stable proliferative diabetic retinopathy of both eyes associated with type one diabetes mellitus. He was also noted to have immature cataracts without visual significance. Finally, he was noted to have a mild epiretinal membrane and elected not to do surgery at this point and continue to monitor. Petitioner's glasses and contacts prescription was updated. (Exhibit A, pp. 45, 49)
  - c. On [REDACTED] 2022, Petitioner visited the Eye Center for diabetic retinopathy and cataract management. Petitioner lost his new glasses and wanted a copy of his prescription to obtain a new pair of glasses. He declined dilation. Petitioner had stable proliferative diabetic retinopathy of both eyes associated with type one diabetes mellitus. Petitioner had a

new formation of cataracts and complaints of worsening glare and vision. (Exhibit A, pp. 36, 39, 43)

- d. On [REDACTED] 2023, Petitioner was seen at Aspirus Ontonagon Hospital Therapies (OHT) for outpatient physical therapy reporting worsening pain in his neck causing difficulty sleeping and moving his head. He had been diagnosed with cervicalgia of occipito-atlanto-axial region. Petitioner identified his pain as a six out of ten. Petitioner was noted to keep his upper body rigid with elevated shoulders and a forward posture. Upon palpitation, he had tenderness to the right scaleni muscles and pain with radiation to his right arm with palpitation of the left sided nerve root. Petitioner had a decreased cervical flexion and extension by 20 degrees and a 40-degree limitation to his right arm rotation and 25 degrees to the left arm rotation. He was also noted to have limited retraction of his right arm. Petitioner's left arm extension was limited by 55 degrees. Petitioner's hand intrinsic muscles were noted to be a 3+ out of five for strength and neuro screening. Petitioner was positive on the right side for axial compression, distraction testing, quadrant testing, upper limb tension test. Petitioner had a neck disability score of 30%. (Exhibit B)
9. Petitioner was [REDACTED] years old at the time of application and [REDACTED] at the time of the hearing. He is 5 foot 6 inches tall and weighs approximately 150 pounds after having lost some weight in the last six months.
10. Petitioner has a high school diploma and is fluent in reading, writing, and speaking English and able to do basic math.
11. Petitioner does not have any specialized vocational training.
12. Petitioner lives alone and has no difficulties with bathing, personal hygiene, dressing, chores, grocery shopping (with the aid of electric carts occasionally), and driving.
13. Petitioner cares for his two cats and one fish.
14. To keep himself busy he spends time online reading gospel and truth information.
15. Petitioner can walk for about a half a mile with three or four stops for three to five minutes. He does not have any difficulty with gripping, grasping, or standing. Lifting a 5-gallon bucket is difficult. He gets uncomfortable sitting for long periods but is unable to identify the length of time. He can bend and squat, but not repetitively and when he does it causes pain. He can take the four-steps to get into his home but is unsure of situations involving more steps.
16. Petitioner alleges that he cannot work because he has severe muscle tension in his neck, shoulders, and lower back; severe arthritis in his arms and legs;

neuropathy in his hands, partial blindness caused by cataracts causing difficulties to see at night (he uses glasses which corrects the problem), acid reflux/GERD which is controlled by medication, PRES syndrome causing memory and slurred speech occasionally which seems to have stabilized and lessened over time, and insomnia and fatigue cause by the inability to sleep due to pain.

17. At the time of the hearing, Petitioner was employed part-time at a grocery store working 13 hours per week on two days of the week for six-to-seven-hour shifts. He was paid \$ [REDACTED] per hour with weekly paychecks. Petitioner is responsible for restocking shelves, emptying the can and bottle recycling machines, and bringing in the grocery carts. As part of these activities, he is regularly lifting 10 to 15 pounds, pushing and pulling the grocery carts, sitting for his breaks for about 25 minutes, and standing for the remainder of his shift. He is not required to interact with customers. Petitioner took the job to help pay for his bills.
18. Past work history includes working at a factory in [REDACTED] from 2009-2013. He left the job because of kidney failure. He has since had a kidney transplant and not currently experiencing difficulties from the transplant. The factory assembled parts for vehicles, tractors, oil rigs, and other items. He worked as a machine operator, training other people, ensuring quality control, and packaging of the parts.
19. Petitioner also worked as a driver in a car lot but is unsure when he worked in this position.

### **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. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

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 began part-time employment shortly before the hearing in this case. He worked 13 hours per week earning \$██████ per hour and was paid weekly. Therefore, Petitioner has a monthly standardized earned income of \$██████ (\$10.10 times 13 times 4.3 to account for months that have more than four weeks). BEM 505 (October 2022), pp. 6-9. Although Petitioner is employed, upon review of 20 CFR 416.971 through 20 CFR 416.975, Petitioner is not engaged in SGA because their monthly earnings do not meet the SGA earnings criteria for the 2023 application year (\$2,460.00 for blind, and \$1,470.00 for non-blind). Petitioner was not engaged in SGA, is not ineligible under Step 1, and the analysis continues to Step 2.

### **Step Two**

Under Step 2, the severity and duration of an individual's alleged impairment is considered. If the individual does not have a severe medically determinable physical or mental impairment (or a combination of impairments) that meets the duration requirement, the individual is not disabled. 20 CFR 416.920(a)(4)(ii). The duration requirement for SDA means that the impairment is expected to result in death or has lasted, or is expected to last, for a continuous period of at least 90 days. 20 CFR 416.922; BEM 261, p. 2.

An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities mean the abilities and aptitudes necessary to do most jobs, such as (i) physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling; (ii) the capacity to see, hear, and speak; (iii) the ability to understand, carry out, and remember simple instructions; (iv) use of judgment; (v) responding appropriately to supervision, co-workers and usual work situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b).

The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. While the Step 2 severity requirement may be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint, under the *de minimis* standard applied at Step 2, an impairment is severe unless it is only a slight abnormality that minimally affects work ability regardless of age, education, and experience. *Higgs v Bowen*, 880 F2d 860, 862-863 (CA 6, 1988), citing *Farris v Sec of Health and Human Servs*, 773 F2d 85, 90 n.1 (CA 6, 1985). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, are not medically severe, i.e., do not have more than a minimal effect on the person's physical or mental ability to perform basic work activities. Social Security Ruling (SSR) 85-28. If such a finding is not clearly established by medical evidence or if the effect of an impairment or combination of impairments on the individual's ability to do basic work activities cannot be clearly determined, adjudication must continue through the sequential evaluation process. *Id.*; SSR 96-3p.

The medical evidence presented at the hearing was reviewed and, in consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, it is found to be sufficient to establish that Petitioner suffers from severe impairments that have lasted or are expected to last for a continuous period of not less than 90 days. Therefore, Petitioner has satisfied the requirements under Step 2, and the analysis will proceed to Step 3.

### **Step Three**

Step 3 of the sequential analysis of a disability claim requires a determination if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920(a)(4)(iii). If an individual's impairment, or combination of impairments, is of a severity to meet or medically equal the criteria of

a listing and meets the SDA 90-day duration requirement, the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 1.00 (musculoskeletal disorders), 1.15 (disorders of the skeletal spine resulting in a compromise of a nerve root), 1.18 (abnormality of a major joint in any extremity), 2.01 (category of impairments, special senses and speech), 2.02 (loss of central visual acuity), 2.04 (loss of visual efficiency) 5.00 (digestive system), 11.01 (category of impairments, neurological disorders), 11.14 (peripheral neuropathy), 14.09 (inflammatory arthritis) 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. Under 1.15, no evidence was presented that medical imaging revealed a compromised nerve root in the cervical or lumbosacral spine. Under 1.18, there was no evidence of an anatomical abnormality in any extremity. Under 2.01 and 2.02, there was no evidence that Petitioner's remaining vision in his better eye after the best correction was 20/200 or less. Under 2.04, there was no evidence that there was a loss of visual efficiency of 20 or less after correction or of impairment equal to or greater than 1.0. Petitioner did not meet any required element under 5.0. Under 11.01 and 11.14, no medical evidence was presented that Petitioner has a disorganization of motor function in two extremities or a marked limitation in physical function. Finally, under 14.09, no medical evidence was presented of a persistent inflammation or deformity of a peripheral joint in the lower extremity, inflammation or deformity in at least one major joint of the upper extremity, ankylosing spondylitis or spondyloarthropathies, repeated manifestations of inflammatory arthritis. Therefore, Petitioner is not disabled under Step 3 and the analysis continues to Step 4.

### **Residual Functional Capacity (RFC)**

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

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

to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

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

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

If an individual has limitations or restrictions that affect the ability to meet demands of jobs *other than* strength, or exertional demands, the individual is considered to have only nonexertional limitations or restrictions. 20 CFR 416.969a(a) and (c). Examples of non-exertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi). For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). Where the evidence establishes a medically determinable mental impairment, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. The effect on the overall degree of functionality is evaluated under four broad functional areas, assessing the ability to (i) understand, remember, or apply information; (ii) interact with others; (iii) concentrate, persist, or maintain pace; and (iv) adapt or manage oneself. 20 CFR 416.920a(c)(3). A five-point



scale is used to rate the degree of limitation in each area: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c)(4).

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources and nonmedical sources. SSR 16-3p.

In this case, Petitioner alleges exertional and non-exertional limitations due to his medical conditions. Petitioner's medical records do not reflect any significant limitations but Petitioner has testified to an inability to walk long distances, limited vision which is corrected by glasses, pain, concentration, and memory issues. Given the very limited medical evidence with respect to Petitioner's ability, in addition to Petitioner's work at a grocery store requiring him to collect grocery carts, stock shelves, and empty the recycling containers, Petitioner maintains at least the physical capacity to perform light work as defined by 20 CFR 416.967(a).

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 working in a factory, driving cars, and working in a grocery store which requires at least light work. Petitioner has an exertional RFC which is light. Therefore, Petitioner is able to perform past work and is considered not disabled.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner not disabled for purposes of the SDA benefit program.

**DECISION AND ORDER**

Accordingly, the Department's determination is AFFIRMED.

AM/mp



---

**Amanda M. T. Marler**  
Administrative Law Judge

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via-Electronic Mail :**

**Interested Parties**  
MDHHS-906WestHearings  
L. Karadsheh  
MOAHR  
BSC1

**Via-First Class Mail :**

**Petitioner**  
[REDACTED]  
MI [REDACTED]