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GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
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Date Mailed: November 14, 2023
MOAHR Docket No.: 23-005145
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 September 21, 2023. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Angela Clark, Eligibility State Disability Assistance (SDA) Specialist.

At the hearing, a 533-page packet submitted by the Department was marked and admitted as Exhibit A.

After the hearing was completed on September 21, 2023, the hearing record was extended to allow Petitioner [REDACTED] the opportunity to submit additional medical records by October 26, 2023. After the hearing, one additional 8-page record was received from Petitioner which was marked and admitted as Exhibit B.

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 [REDACTED] 2023, the Department received Petitioner's application for State Disability Assistance (SDA) benefits.
2. On July 18, 2023, the Department received Petitioner's completed Medical Social Questionnaire alleging a disability caused by depression, anxiety, weight, and arthritis with onset of each in 2020.

3. At the time of the hearing, Petitioner had a pending reconsideration of his Social Security Administration (SSA) disability decision.
4. Petitioner's medical information was sent to the Disability Determination Service (DDS) for review.
5. On August 11, 2023, the Department received the DDS decision indicating that Petitioner was not disabled and capable of performing other work.
6. On August 15, 2023, the Department issued an Application Eligibility Notice to Petitioner informing him that his application for SDA had been denied because he was not disabled.
7. On August 22, 2023, the Department received Petitioner's request for hearing disputing the denial of his SDA application.
8. The medical evidence revealed the following:
 - a. Petitioner reported on his Function Report for the Social Security Administration (SSA) that standing and walking hurt due to arthritis in his knees and weight and that he can only stand for a few minutes before needing to sit. He walks with a cane, but it has not been prescribed by a doctor. When walking he needs breaks lasting from one to ten minutes depending on how far he is walking. (Exhibit A, pp. 55, 60-61) He describes his day as watching YouTube videos and movies to distract him from his problems and eating sandwiches so he does not have to stand to prepare them or canned goods that he can open and eat. (Exhibit A, p. 56) His sleep is affected because if he lays wrong his knee hurts and he has sleep apnea due to his weight. (Exhibit A, p. 56) For grooming, he struggles to bend to put on articles of clothing and can no longer wear socks; he showers once per month because of pain from standing; and has difficulties cleaning himself completely after using the restroom. (Exhibit A, p. 56) Petitioner is able to clean, do laundry, mow the lawn, do dishes, and weed whacking but the mowing takes many hours over several days, weed whacking takes an hour, and the other items take between 15 and 30 minutes. (Exhibit A, p. 57) Petitioner does not go outside because of the pain in walking and the anxiety in thinking about what someone will think seeing him. He can drive, but others give him rides because of his financial situation. He goes grocery shopping once per week for 30-45 minutes. (Exhibit A, p. 58) Petitioner socializes once or twice a week at a friend's house playing games. (Exhibit A, p. 59)
 - b. In February 2021, Petitioner was diagnosed after a CT of his abdomen and pelvis with contrast with "bilateral fat-containing indirect inguinal hernias, along with a moderate-sized fat-containing umbilical hernia. The umbilical hernia appeared as early as 2017. (Exhibit A, pp. 159, 186-188)

- c. In [REDACTED] of 2021, Petitioner was seen for a follow up after his sleep study. He was diagnosed with obstructive sleep apnea. Petitioner reported more energy and feeling less tired after 6 weeks of use of his CPAP. He was happy with the response to the CPAP. At the time of the sleep study, he weighed about [REDACTED] pounds. The CPAP prescription was issued to Petitioner on February 12, 2021. (Exhibit A, pp. 138, 163, 181)
- d. In [REDACTED] 2021, Petitioner went to his primary care physician (PCP) complaining of anxiety with little relief from Zoloft. (Exhibit A, p. 68)
- e. In [REDACTED] 2021, Petitioner was seen for his anxiety and depression. At the time he was assessed a PHQ-9 score of 4 and a GAD 7 score of 1 and denied suicidal and homicidal ideations. His prescription for Zoloft was refilled. (Exhibit A, p. 301)
- f. On [REDACTED] 2022, Petitioner was seen for bariatric medical nutrition therapy and nutritional assessment/education. At the time, he weighed [REDACTED] pounds having lost 7.6 pounds in one month. (Exhibit A, p. 287)
- g. On [REDACTED] 2022, Petitioner was seen for chronic left knee pain and prescribed meloxicam and corticosteroid injections were discussed for the future. (Exhibit A, p. 189)
- h. On [REDACTED] 2022, Petitioner was seen by his PCP for follow up on his depression and anxiety. He was assessed a PHQ-9 total score of 11 and expressed little interest or pleasure in doing things on more than half of the days. His GAD score was assessed as 7 feeling nervous, anxious or on edge, not being able to stop or control his worry, and worrying too much about different things more than half of the days. (Exhibit A, p. 274)
- i. On [REDACTED] 2022, Petitioner visited his PCP noted that Petitioner's obesity was unchanged, and that part of Petitioner's depression and anxiety was attributable to his housing circumstances. He was noted as not regularly brushing or flossing his teeth. Petitioner's body mass index (BMI) was listed at greater than or equal to 70. His depression score was 9. (Exhibit A, p. 63-65, 266)
- j. On [REDACTED] 2023, Petitioner was seen for his inguinal hernia which he had advised had existed for several years but denied any pain at the time of the appointment. The doctor advised that Petitioner's hernias could not be repaired until his BMI was below 45. (Exhibit A, pp. 214-215)
- k. On [REDACTED] 2023, Petitioner was seen for moderate osteoarthritis of his right knee which was treated with naproxen and corticosteroid injections were discussed but declined due to other recent treatments for an infection. The diagnosis was made after an x-ray of his knee. He rated

his pain to be between 5 and 8 on a 10-point scale daily. (Exhibit A, pp. 189, 208)

- I. On [REDACTED] 2023, Petitioner was seen for follow up on his depression by his PCP. Petitioner advised that he did not believe his previously prescribed Zoloft and buspirone were working and was instead prescribed Prozac. His depression screening score was 9. (Exhibit A, pp. 203-204)
 - m. On [REDACTED] 2023, Petitioner was seen by Sierra Medical Group, PLC for a psychiatric evaluation as part of his SSA claim. During the evaluation, he admitted that he previously saw a psychiatrist and therapist but has not followed up with them for about five years. He was currently seeing his PCP. Petitioner was living in a group home. He was assessed to have signs and symptoms of depression and anxiety and diagnosed with major depressive disorder with anxious distress. His prognosis was considered guarded to faire with continuing treatment. He was also noted to be [REDACTED]-foot [REDACTED] inch tall and weighing approximately [REDACTED] pounds. (Exhibit A, pp. 129-130)
 - n. On [REDACTED] 2023, Petitioner was seen by his therapist for dysthymic disorder and adjustment disorder with anxiety with a good prognosis. (Exhibit B)
9. Petitioner was [REDACTED] years old at the time of application. He is [REDACTED] foot [REDACTED] inches tall and reported to weigh approximately [REDACTED] pounds.
10. Petitioner has a high school diploma and has completed some college course work. He does not have any special training or licenses.
11. He is fluent in reading, writing, and speaking English and able to do basic math.
12. Petitioner lives in a group home with a communal dining and bath but has his own room.
13. Petitioner's day starts at 7:00 AM and he has breakfast. At 8:00 AM, he receives his medications. From there, Petitioner sits and watches YouTube videos then has lunch and repeats the same activities in the afternoon and then dinner and medications at 5:00 PM. At 7:00 PM, Petitioner has a snack, he repeats his earlier activities, has his temperature taken, and then continues to watch YouTube or videos until midnight when he attempts to go to sleep. Usually, Petitioner does not fall asleep for 30 minutes to two hours no matter how tired he is.
14. Petitioner cannot stand for more than a few minutes which means he struggles with dressing and undressing, bathing and showering, preparing meals, and grocery shopping. Petitioner is required to change his sheets and wipe down six chairs outside as part of his chores at the group home.

15. Petitioner cannot squat, bend at the waist, or kneel due to his hernia and osteoarthritis.
16. Petitioner has a driver's license but does not drive because his vehicle is not operable.
17. Petitioner can take the stairs slowly but has been told he is not allowed to use the stairs in the group home for fear of him falling.
18. Petitioner walks with a cane, but no evidence of a prescription or doctor's orders was provided in the medical evidence.
19. Petitioner's only hobbies now are watching YouTube and other videos.
20. Petitioner has the following work history:
 - a. [REDACTED] from September 2021 through November 2021 making sandwiches, operating the cash register, prepping food for the line, cleaning dishes and preparing for the next day. He left this job after becoming ill with a cough and having an issue with management. He did not feel the job was worth the hassle. Petitioner does not believe he could do this job now because he is unable to stand for long periods due to the arthritis in his knee.
 - b. [REDACTED] dock worker, cashier, and then head cashier from October 2018 through November 2019. Petitioner helped patrons unload their cars and bring in donations, load and offload the truck, make announcements over the public address system, handling cash, made phone calls, and managed workloads for other cashiers. Petitioner left this job because of a dispute with the newly promoted store manager and having to call in sick due to mental health. Eventually, he decided he could not handle it anymore and stopped going to work.
 - c. Temporary worker through [REDACTED] from June 2018 through August 2018. Petitioner was required to facilitate the food processing and packaging of food on the assembly line. The job required him to lift up to 20 pounds and to make repetitive movements keeping up with the machine. Petitioner left this job because he was butting heads with the shift manager.
 - d. Game Master at an [REDACTED] between July 2017 and December 2017. Petitioner was responsible for resetting the room after groups left and customer service. Petitioner left this job because of a lack of transportation. Petitioner believes that he could do this job now with some mild stage fright in attempting sales.

- e. Pizza maker from December 2016 through February 2017. Petitioner was responsible for customer service, preparing the pizzas, preparing food for the line, cleaning the dishes, and handling cash. Petitioner left this job because he did not get along with the manager and Petitioner believed that he was not a mindless drone as expected by the manager. Petitioner does not believe that he could do this job now because of his knees.
- f. [REDACTED] deli worker from September 2016 through October 2016. Petitioner was responsible for sweeping and mopping, stocking shelves, cutting meat, and customer service. Petitioner left because he was told he was not a good worker, but the manager was unable to identify why, so Petitioner left.
- g. [REDACTED] crew from February 2016 through July 2016. Petitioner was tasked with working the drive-thru and wore the headset, taking orders, handling cash, and assisted in the front with customers, making food in the deep fryer, cleaning dishes, mopping, and sweeping the bathrooms. Petitioner left this job because he tore a ligament. Petitioner does not believe that he can do this job now because of his knees.
- h. Pizza delivery from January 2014 through April 2015. Petitioner was responsible for pizza delivery, shoveling snow, handling cash, cooking, and cleaning. Petitioner left this job because he was bored.
- i. Petitioner has also worked as a security guard tasked with monitoring the facility, making patrols, and logging activities. Petitioner left this job because he received two write-ups after being caught sleeping on the job. Petitioner believes he could do this job if he was not required to make patrols.
- j. Petitioner has had other temporary jobs at factories and has worked at a gas station.

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 has not worked since November of 2021, 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 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), 1.18 (abnormality of a major joint in any extremity), 12.00 (mental disorders), 12.04 (depressive, bipolar and related disorders), 12.06 (anxiety and obsessive-compulsive disorders) were considered. Under 1.18, Petitioner has not presented any evidence of a documented medical need for a mobility assistive device, an inability to use an upper extremity necessary for the use of a documented medically needed hand-held assistive mobility device, or an inability to use both upper extremities. Under 12.04 and 12.06, Petitioner only presented evidence of four of the five required elements for a depressive disorder and two of the three required elements for the anxiety disorder nor was there evidence of an extreme limitation of one or marked limitation of two of the following: 1) understanding, remembering, or applying information; 2) interacting with others; 3) concentrating, persisting, or maintaining pace; or 4) adapting or managing oneself. 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).

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 reflect diagnoses of hernias, osteoarthritis of his knees, excess weight, anxiety, and depression. As a result, Petitioner uses a cane or walker to move around. Despite the pain, his medical records do not identify any specific limitations such as distance or length of time he can walk, how long he can sit, stand, or lay, or any weightlifting restrictions. The medical records do not reflect any degree of limitation caused by his depression or anxiety and show a generally acceptable improvement and ability to function while taking his prescribed medications. Petitioner's own statements reflect an inability to walk or stand for more than a few minutes at a time in addition to a general discomfort when around others resulting in a mild limitation of his ability to interact with others. After reviewing all of the evidence, Petitioner maintains at least the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a) with a mild limitation of his ability to interact with others.

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 customer service and sales, security guard, food service, assembly line worker, and other items which requires sedentary to medium work. Petitioner has an exertional RFC which is sedentary and a non-exertional mild limitation of his ability to work with others. Petitioner agreed at the hearing that he is likely able to do work similar to his job at an escape room and could work as a security guard if not required to do patrols. Therefore, Petitioner is able to perform past work and is not disabled at Step Four.

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

