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

MARLON BROWN DPA DIRECTOR

MI	

GRETCHEN WHITMER

GOVERNOR

Date Maileo	d: April 8, 20	24
MOAHR Do	ocket No.: 24	-001091
Agency No.	.:	
Petitioner:		

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 7, 2024, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Lianne Scupholm. Department Exhibit 1, pp. 1-600 was received and admitted.

<u>ISSUE</u>

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

- 1. Petitioner applied for SDA on **Example 1**, 2022.
- 2. The Medical Review Team denied the application on October 16, 2023.
- 3. On February 6, 2024, a Notice of Case Action was sent to Petitioner informing her that her SDA application was denied.
- 4. Petitioner filed a request for hearing on January 23, 2024, regarding the SDA denial.
- 5. A telephone hearing was held on March 7, 2024.
- 6. Petitioner is **tall** and weighs approximately **pounds**.
- 7. Petitioner is years of age.
- 8. Petitioner's impairments have been medically diagnosed as Takayasu's arteritis, back and neck pain, arthritis, fibromyalgia, COPD, tachycardia, hypothyroidism, carpal tunnel syndrome, peripheral artery disease, and depression.

- 9. Petitioner has the following symptoms: pain, fatigue, shortness of breath, joint swelling dizziness, insomnia, panic attacks, memory problems, and social isolation.
- 10. Petitioner completed 8th grade.
- 11. Petitioner is able to read, write, and perform basic math skills.
- 12. Petitioner is not working. Petitioner last worked full time in 2011 as a gas station cashier.
- 13. Petitioner testified that she cannot perform some household chores.
- 14. Petitioner takes the following prescribed medications:
 - a. trelegy
 - b. Ventolin
 - c. Abilify
 - d. Lipitor
 - e. Wellbutrin
 - f. Synthroid
 - g. Cozaar
 - h. Toprol
 - i. imuran
- 15. Petitioner testified to the following physical limitations:
 - i. Sitting: 30 minutes
 - ii. Standing: 7-8 minutes
 - iii. Walking: 50 feet
 - iv. Bend/stoop: some difficulty
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: no limitations

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 impariment 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.

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the Federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA-P program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical, or mental, impairment which can be expected to result in death, or which has lasted, or can be expected to last, for a continuous period of not less than 12 months.... 20 CFR 416.905.

Federal regulations require that the Department use the same operative definition for "disabled" as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a). "Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical, or mental, impairment which can be expected to result in death, or which has lasted, or can be expected to last, for a continuous period of not less than 12 months ... 20 CFR 416.905.

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is, or is not, disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). In this case, the Petitioner is not working. Therefore, the Petitioner is not disqualified at this step in the evaluation.

The second step to be determined in considering whether the Petitioner is considered disabled is the severity of the impairment. In order to qualify the impairment must be considered severe, which is defined as an impairment which significantly limits an individual's physical or mental ability to perform basic work activities. Examples of these include:

- 1. Physical functions such as walking, standing, sitting, lifting, pushing, reaching, carrying, or handling;
- 2. Capacities for seeing, hearing, and speaking;

- 3. Understanding, carrying out, and remembering, simple instructions;
- 4. Use of judgment;
- 5. Responding appropriately to supervision, co-workers, and usual work situations; and
- 6. Dealing with changes in a routine work setting. 20 CFR 416.921(b).

In this case, the Petitioner's medical evidence of record supports a finding that Petitioner has significant physical and mental limitations upon Petitioner's ability to perform basic work activities such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling. Medical evidence has clearly established that the Petitioner has an impairment (or combination of impairments) that has more than a minimal effect on the Petitioner's work activities. See Social Security Rulings: 85-28, 88-13, and 82-63.

In the third step of the analysis, the trier of fact must determine if the Petitioner's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Petitioner's medical record does not support a finding that the Petitioner's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR Part 404, Part A. Listings 12.04, 4.04 and 4.05 were considered.

The person claiming a physical, or mental, disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for a recovery and/or medical assessment of ability to do work-related activities, or ability to reason and to make appropriate mental adjustments, if a mental disability is being alleged. 20 CRF 416.913. A conclusory statement by a physician, or mental health professional, that an individual is disabled, or blind, is not sufficient without supporting medical evidence to establish disability...20 CFR 416.927.

The fourth step of the analysis to be considered is whether the Petitioner has the ability to perform work previously performed by the Petitioner within the past 15 years. The trier of fact must determine whether the impairment(s) presented prevent the Petitioner from doing past relevant work. In the present case, the Petitioner's past employment was as a gas station clerk. Working as a gas station clerk, described by Petitioner at hearing, would be considered light exertional work. The Petitioner's impairments would not prevent her from doing past relevant work.

Accordingly, this Administrative Law Judge concludes that Petitioner is not disabled for purposes of the SDA program. Petitioner's testimony regarding her limitations and ability to sit, stand, walk, lift, and carry were not supported by the medical evidence. Petitioner failed to present medical evidence to show that she has psychological impairments that are substantially limiting.

Therefore, Petitioner is found to not be disabled.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Petitioner is not medically disabled.

Accordingly, the Department's decision is hereby AFFIRMED.

Am Milti Aaron McClintic

Administrative Law Judge

AM/cc

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-Calhoun-Hearings BSC3-HearingDecisions L. Karadsheh MOAHR

Via-First Class Mail :

Petitioner

