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GOVERNOR

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

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DIRECTOR

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Date Mailed: July 1, 2024
MOAHR Docket No.: 24-003103
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 June 4, 2024, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Jacqueline Martin and Julie Parrish. Department Exhibit 1, pp. 1-1449 was received and admitted.

ISSUE

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

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 ██████████ 2023.
2. The Medical Review Team denied the application on January 25, 2024.
3. On March 14, 2024, a Notice of Case Action was sent to Petitioner informing her that her SDA application was denied.
4. On March 18, 2024, Petitioner filed a request for hearing regarding the SDA denial.
5. A telephone hearing was held on June 4, 2024.
6. Petitioner is ██████ tall and weighs approximately ██████ pounds.
7. Petitioner is ██████ years of age.

8. Petitioner's impairments have been medically diagnosed as back pain, history of breast cancer, anemia, frequent urinary tract infections, hypertension, migraines, bipolar disorder, and post-traumatic stress disorder.
9. Petitioner has the following symptoms: pain, fatigue, shortness of breath, joint swelling, dizziness, insomnia, night terrors, flashback, panic attacks, memory problems, and social isolation.
10. Petitioner completed high school and two years of college.
11. Petitioner has difficulty reading, writing, and performing basic math skills.
12. Petitioner is not working. Petitioner last worked full time in 2023 as a direct care worker.
13. Petitioner testified that she cannot perform some household chores.
14. Petitioner takes the following prescribed medications:
 - a. lamictal
 - b. gabapentin
 - c. norvasc
 - d. paxil
 - e. geodon
 - f. trazodone
 - g. robaxin
 - h. propranolol
15. Petitioner testified to the following physical limitations:
 - i. Sitting: 10 minutes
 - ii. Standing: 5 minutes
 - iii. Walking: 50-10 feet
 - iv. Bend/stoop: some difficulty
 - v. Lifting: 10 lbs.
 - vi. Grip/grasp: no limitations
16. Petitioner has moderate limitations with memory and concentration and understanding and following instructions.
17. Petitioner has not attempted suicide or been hospitalized related to mental health issues.

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.

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.

Step One

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.

Step Two

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, 12.15 and 13.10 were considered.

Petitioner's Residual Functional Capacity (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 5 years that was Substantial Gainful Activity (SGA) and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1)(i). Work that was started and stopped in fewer than 30 calendar days is not Past Relevant Work (PRW). *Id.* and 20 CFR 416.960(b)(1)(ii). An individual who has the

RFC to meet the physical and mental demands of work done in the past is not disabled. *Id.*; 20 CFR 416.960(b)(3); 20 CFR 416.920. Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are **not** considered. 20 CFR 416.960(b)(3).

Petitioner's work history in the 5 years prior to the application consists of work as a direct care worker. Petitioner's work as a direct care worker, which required standing for more than 4 hours per day and lifting up to 50 pounds regularly, required medium physical exertion.

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 CFR 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.

Based on the RFC analysis above, Petitioner's exertional RFC limits her to no more than light work activities. As such, Petitioner is incapable of performing past relevant work. Petitioner also has significant limitations in her mental capacity to perform basic work activities. In light of the entire record, it is found that petitioner's nonexertional RFC prohibits her from performing past relevant work.

Because Petitioner is unable to perform past relevant work, Petitioner cannot be found disabled, or not disabled, at Step 4, and the assessment continues to Step 5.

Step 5

If an individual is incapable of performing past relevant work, Step 5 requires an assessment of the individual's RFC and age, education, and work experience to determine whether an adjustment to other work can be made. 20 CFR 416.920(a)(4)(v); 20 CFR 416.920(c). If the individual can adjust to other work, then there is no disability; if the individual cannot adjust to other work, then there is a disability. 20 CFR 416.920(a)(4)(v).

At this point in the analysis, the burden shifts from Petitioner to MDHHS to present proof that Petitioner has the RFC to obtain and maintain substantial gainful employment. 20 CFR 416.960(c)(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978).

When a person has a combination of exertional and nonexertional limitations or restrictions, the rules pertaining to the strength limitations provide a framework to guide

the disability determination **unless** there is a rule that directs a conclusion that the individual is disabled based upon strength limitations. 20 CFR 416.969a(d).

In this case, Petitioner was ■ years old at the time of application and ■ years old at the time of hearing, and, thus, considered to be a younger individual (age ■) for purposes of Appendix 2. She is a high school graduate with a history of work experience that involved medium exertional work. As discussed above, Petitioner maintains the exertional RFC for work activities on a regular and continuing basis to meet the physical demands to perform light work activities.

Based solely on her exertional RFC, the Medical-Vocational Guidelines, 202.20, result in a finding that Petitioner is not disabled. However, Petitioner also has impairments due to her mental condition. As a result, she has a nonexertional RFC imposing some limitations in her activities of daily living; some limitations in her social functioning; and some limitations in her concentration, persistence, or pace limitations. It is found that those limitations would not preclude her from engaging in simple, unskilled work activities on a sustained basis. See SSR 83-14. Therefore, Petitioner is able to adjust to other work and is **not** disabled at Step 5.

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/cc



Aaron McClintic
Administrative Law Judge

