



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: January 3, 2025
MOAHR Docket No.: 24-004320
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following Petitioner’s request for a hearing, this matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250. After due notice, a hearing was held on June 4, 2024, via teleconference. Petitioner appeared and represented herself. Katie Marks, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS’ proposed exhibits were admitted into evidence as MDHHS Exhibit A, pp. 1-948, MDHHS Exhibit B, pp. 1-1192, MDHHS Exhibit C, pp. 1-409, and MDHHS Exhibit D, pp. 1-16.

During the hearing, the parties agreed to extend the record for the admission of additional documents and to waive the timeliness standard for the issuance of this decision. On June 11, 2024, the undersigned ALJ issued an Interim Order Extending the Record, which indicated that all additional evidence was due to the Michigan Office of Administrative Hearings and Rules (MOAHR) by July 5, 2024. On [REDACTED], 2024, Petitioner submitted documents to MOAHR, which were admitted as Petitioner Exhibit 1, pp. 1-10.

On August 1, 2024, the undersigned ALJ issued a Second Interim Order Extending the record, indicating that MDHHS had not provided the documentation relied upon by the Disability Determination Service (DDS). The undersigned ALJ extended the record an additional 30 days to allow MDHHS to provide the documents required to complete the record. Additional evidence was due to MOAHR by September 3, 2024. On August 6, 2024, MDHHS submitted additional documentation, which was admitted into evidence as MDHHS Exhibit E, pp. 1-622. The matter is now before the undersigned for a final determination based on the evidence presented.

ISSUE

Did MDHHS properly determine that Petitioner was not disabled for purposes of State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of SDA benefits. Petitioner began receiving SDA in [REDACTED]. In a Hearing Decision issued on [REDACTED] 2016, Administrative Law Judge Aaron McClintic found Petitioner medically disabled as of [REDACTED] 2016. MOAHR Docket Number: 16-009505.
2. On [REDACTED], 2023, Petitioner submitted redetermination for cash assistance (SDA), Food Assistance Program (FAP) and Medicaid (MA) (Exhibit A, p. 6).
3. On [REDACTED], 2023, Petitioner submitted a Medical – Social Questionnaire for SDA, alleging bipolar disorder, anxiety disorder, Chronic Obstructive Pulmonary Disease (COPD), congestive heart failure, fibromyalgia, and psoriatic arthritis, among other ailments (Exhibit A, p. 22).
4. On [REDACTED] 2023, Petitioner submitted a Function Report – Adult to MDHHS (Exhibit E, p. 40). Petitioner reported that her mania caused psychosis and poor decision-making at times (Exhibit E, p. 40). Petitioner reported that depression caused her to feel suicidal, helpless and alone (Exhibit E, p. 40). Petitioner reported difficulty with communication (Exhibit E, p. 40). Petitioner reported experiencing anger, frustration and sadness, and that she experiences “mixed states and rapid cycling” (Exhibit E, p. 40). Petitioner reported difficulty breathing, heart palpitations, and chest pain. Petitioner reported anxiety from social situations and stated that she had trouble in stores and shops as little as possible (Exhibit E, p. 40). Petitioner reported that she is unable to sleep due to her anxiety (Exhibit E, p. 41). Petitioner reported difficulty with personal care due to depression and difficulty breathing (Exhibit E, p. 41). Petitioner reported that it was hard to shower and used the toilet due to physical ailments (Exhibit E, p. 41). Petitioner reported difficulty with household chores due to mental and physical conditions and stated that it was painful to bend over the sink to do dishes and that she tires easily and runs out of breath (Exhibit E, p. 41). Petitioner reported that she isolates when feeling depressed and often stays home for weeks (Exhibit E, p. 43). Petitioner reported that her knee, back and neck pain make it difficult to lift, squat, bend, stand, reach, walk, sit, kneel and climb stairs (Exhibit E, p. 45). Petitioner reported that she has difficulty with memory, completing tasks and concentration due to bipolar disorder and Post Traumatic Stress Disorder (PTSD) (Exhibit E, p. 45).
5. On March 15, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program because she was capable of performing other work (Exhibit A, p. 74). DDS noted in its rationale that new evidence was presented to support an improvement in claimant’s condition (Exhibit A, p. 55). DDS determined that Petitioner was capable of simple, routine tasks (Exhibit A, p. 55). DDS found that Petitioner’s medically determinable impairments (MDIs) can be reasonably expected to produce the

individual's pain and other symptoms; however, the individuals' statements regarding the intensity, persistence and functionally limiting effects were not substantiated by the medical evidence alone (Exhibit A, p. 56).

6. On March 20, 2024, MDHHS sent Petitioner a Notice of Case Action stating that Petitioner's SDA case was closed, effective May 1, 2024 ongoing, because she was not disabled (Exhibit A, p. 67).
7. On April 1, 2024, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding her disability status (Exhibit A, pp. 4-5).
8. MDHHS submitted medical records dating back to 2013, which included diagnoses of several physical and mental disorders. Petitioner was treated for physical problems related to degenerative joint disease, knee pain, and back pain. Petitioner was diagnosed with Bipolar Disorder, Anxiety Disorder and Depression and received treatment for her mental health conditions.
9. Recent medical record reflects the following:
 - a. On October 25, 2022, a doctor of orthopedic medicine at My Michigan Health examined Petitioner for bilateral knee pain (Exhibit E, p. 158). The practitioner noted localized pain and associated instability (Exhibit E, p. 158). The practitioner reviewed and agreed with Petitioner's chief complaint and problem list, which included Bipolar 1 disorder, COPD, arthritis, back and knee pain, fibromyalgia, and depression, among other ailments (Exhibit E, p. 158).
 - b. On November 28, 2022, [REDACTED] nurse practitioner, at My Michigan Health examined Petitioner for COPD, asthma and allergic rhinitis (Exhibit E, p. 226). The practitioner reviewed and confirmed Petitioner's problem list and noted that Petitioner has consistent respiratory symptoms (Exhibit E, p. 231).
 - c. On March 21, 2023, Petitioner visited the Emergency Department at MyMichigan Medical Center in Alma for ankle pain (Exhibit E, p. 280).
 - d. On March 28, 2023, a doctor of orthopedic medicine at My Michigan Health examined Petitioner for right ankle pain following a fall (Exhibit E, p. 165). The practitioner reviewed and agreed with Petitioner's chief complaint and problem list (Exhibit E, p. 169).
 - e. On May 14, 2023, Petitioner visited the Emergency Department at MyMichigan Medical Center in Alma for palpitations and chest pressure (Exhibit E, p. 260).
 - f. On October 31, 2023, Petitioner was examined by [REDACTED] nurse practitioner, at My Michigan Health for health care maintenance,

gastroesophageal reflux disease, diarrhea, chronic low back pain with right-sided sciatica, bilateral hip pain and chronic bilateral low back pain with left-sided sciatica. Conditions were confirmed by the treating practitioner, and Petitioner was referred to endoscopy and physical therapy. The nurse practitioner noted that the screening for depression, anxiety and domestic violence were concerning (Exhibit E, pp. 37-38).

- g. On October 31, 2023, Petitioner was examined by [REDACTED] at Pine Hollow Partners LLC (Exhibit E, p. 50). Petitioner's problem list was reviewed and confirmed. A review of Petitioner's systems indicated fatigue, night sweats, jaw pain, blurred vision, dry eyes, dyspnea, chest pain, decreased appetite, heat intolerance, dizziness, extremity weakness, headache, tingling, anxiety, difficulty sleeping, nail changes, back pain, joint pain, joint swelling, morning stiffness, muscle cramping, and neck pain (Exhibit E, p. 53).
- h. On November 14, 2023, a practitioner at Stedman Chiropractic Center PC examined Petitioner and noted aching dull pain in Petitioner's neck, mid and upper back, left sacrum, left pelvis and low back (Exhibit E, p. 57). The practitioner diagnosed segmental and somatic dysfunction of the cervical region, cervical disc disorder, segmental and somatic dysfunction of the thoracic region, as well as other ailments related to Petitioner's lumbar and pelvic regions (Exhibit E, p. 58).
- i. On December 13, 2023, [REDACTED], at Gratiot Integrate Health Network Psychiatric Services examined Petitioner and noted that Petitioner was satisfied with her current medication plan (Exhibit E, p. 217). The practitioner noted that Petitioner was "feeling better;" but that she presented with an anxious mood (Exhibit E, p. 210). The practitioner also noted that insight and judgement were limited (Exhibit E, p. 210). The practitioner noted that Petitioner was currently depressed, unmotivated, not attending to ADLs and isolating herself (Exhibit E, p. 216).
- j. On January 3, 2024, [REDACTED] of Gratiot Integrated Health Network conducted a medical review of Petitioner, finding that Petitioner was experiencing ongoing symptoms of bipolar disorder, that she was currently depressed and unmotivated, that she was not attending to her Activities of Daily Living (ADLs) and that she was isolating herself (Exhibit D, p. 7).
- k. On February 27, 2024, Petitioner attended an office visit with [REDACTED] MSH, ANP-BC, APRN at Pine Hollow Partners, LLC (Exhibit 1, p. 3). The following chronic conditions were addressed: Alpha 1-antitrypsin deficiency, bilateral primary osteoarthritis of knee, COVID-19, dysthymic disorder, fibromyalgia, gout, mixed irritable bowel syndrome, nicotine dependence, fatigue, other specified disorders of thyroid, other

spondylosis with myelopathy, lumbar region, paresthesia of skin, personal history of other malignant neoplasm of skin, pulmonary hypertension, visual discomfort, bilateral and vitamin D deficiency (Exhibit 1, pp. 3-4).

- I. On March 5, 2024, Petitioner was examined by AAA Examinations in Grosse Ile, Michigan (Exhibit E, p. 116). The examiner noted a normal range of motion and a steady gait (Exhibit E, p. 121). Regarding arthritis, the examiner found no obvious swelling and stated that Petitioner performed tasks without limitations (Exhibit E, p. 123). The examiner found a fibromyalgia pathology (Exhibit E, p. 123). Regarding back pain, the examiner noted that she was able to perform all tasks without limitations (Exhibit E, p. 123). Regarding hypertension, the examiner noted that Petitioner's blood pressure was controlled, and there was no evidence of end organ dysfunction (Exhibit E, p. 123). The examiner noted that Petitioner had a history of health issues, that Petitioner appeared drowsy, spoke with a delayed speech and paused often in the middle of sentences (Exhibit E, p. 123). The examiner deferred to psychiatry (Exhibit E, p. 123). The examiner recommended the following limitations for a normal eight-hour workday: 20 minutes of sitting, 10 minutes of standing, 20 feet of walking, and 16 pounds of lifting short distances (Exhibit E, p. 123). The examiner noted that Petitioner is unable to bend over or squat (Exhibit E, p. 123).
 - m. On March 5, 2024, Petitioner was examined by [REDACTED] at Mid-Michigan Radiology Associates (Exhibit E, p. 125). The treating physician found partial lumbarization of S1 vertebral body (Exhibit E, p. 127).
 - n. On May 6, 2024, Petitioner was assessed by [REDACTED] at Stedman Chiropractic Centre PC (Exhibit D, p. 10). The diagnoses included segmental and somatic dysfunction of cervical region, cervical disc disorder, segmental and somatic dysfunction of the lumbar region, lumbago with sciatica (left side), segmental and somatic dysfunction of the pelvic region, sacroiliitis, segmental and somatic dysfunction of the thoracic region and cervicogenic headache (Exhibit D, p. 11).
10. On the date of the hearing, Petitioner was [REDACTED] years old with a [REDACTED] [REDACTED] [REDACTED] birth date; [REDACTED] in height and weighed approximately [REDACTED] lbs.
11. Petitioner has a General Educational Development (GED) degree.
12. At the time of application, Petitioner was not employed.
13. Petitioner does not have a history of employment. Petitioner's last reported employment was in [REDACTED]. She worked at a plant nursery for a few weeks.

14. Petitioner alleged disabling impairments due to various medical conditions, including bipolar disorder, Post Traumatic Stress Disorder (PTSD), manic depression, anxiety, arthritis, fibromyalgia, back issues, high blood pressure, conjunctive heart failure and chronic obstructive pulmonary disease (COPD).
15. Petitioner has a pending disability claim with the Social Security Administration (SSA).

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM). The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.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-P) 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 that has lasted or is expected to last for a continuous period of 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. 1-2; 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 to perform past relevant work; and (5) has the residual functional capacity 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 during the period at issue. 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 416.922(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. RESCINDED BY SSR 16-3.

Here, Petitioner alleged disabling impairments due to various medical conditions, including bipolar disorder, PTSD, manic depression, anxiety, arthritis, fibromyalgia, back issues, HBP, and heart issues (Exhibit A, p. 47). DDS categorized Petitioner's mental disorders, musculoskeletal disorders and fibromyalgia as severe (Exhibit A, p. 54). Petitioner testified that her physical and mental impairments prevented her from working.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step 2, the foregoing medical evidence 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 duration requirement (20 CFR 416.909), the individual is disabled. If not, the analysis proceeds to the next step.

Based on the medical evidence presented in this case, listings 12.2960 (Depressive, Bipolar and Related Disorder); 01.7150 (Osteoarthritis and Allied Disorders); 20.7290 (Fibromyalgia); 12.3000 (Anxiety and Obsessive-Compulsive Disorders), and 12.3030 (Substance Addiction Disorders (alcohol)) were considered (Exhibit A, p. 54).

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

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 residual functional capacity (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 the 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 (MDI) 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.

DDS found that Petitioner had MDI's: depressive, bipolar and related disorders (severe); Osteoarthritis and allied disorders (severe); Fibromyalgia (severe); anxiety and obsessive-compulsive disorders (non-severe); and substance addiction disorders (non-severe) (Exhibit A, p. 54). When determining Petitioner's physical RFC, DDS determined that Petitioner had exertional, postural, manipulative and environmental limitations.

Regarding exertional limitations, DDS determined that Petitioner could occasionally lift and/or carry ten pounds, could frequently lift and/or carry less than 10 pounds, could stand and/or walk (with normal breaks) for a total of two hours, and could sit (with normal breaks for a total of six hours in an eight-hour workday (Exhibit A, p. 57). This conflicts with the examination on March 5, 2024, in which the examiner saw Petitioner and recommended the following limitations for a normal eight-hour workday: 20 minutes of sitting, 10 minutes of standing, 20 feet of walking, and 16 pounds of lifting short distances (Exhibit E, p. 123). The reason for the discrepancy between DDS' determination regarding Petitioner's ability to sit and stand during a normal workday is unclear from the record. DDS noted that the medical opinion was not wholly supported by the totality of the findings in the report, and thus, it was rendered less persuasive (Exhibit A, p. 57).

Additionally, DDS determined that Petitioner had postural limitations, and that she could occasionally climb ramps/stairs, never climb ladders/ropes/scaffolds, could occasionally stoop (i.e. bending at the waist), could never kneel, could occasionally crouch and could never crawl (Exhibit A, p. 58). DDS noted manipulative limitations reaching overhead (Exhibit A, p. 58). Regarding environmental limitations, DDS determined that Petitioner

must avoid all exposure to extreme hot, extreme cold, wetness, and hazards (Exhibit A, p. 58). DDS also noted that Petitioner should avoid concentrated exposure to noise and fumes (Exhibit A, p. 58).

Regarding Petitioner's mental RFC, DDS determined that Petitioner had sustained concentration and persistence limitations (Exhibit A, p. 59). DDS noted moderate limitations on Petitioner's ability to carry out detailed instructions, maintain attention and concentration for an extended period of time, and Petitioner's ability to complete a normal workday without interruptions from psychologically base symptoms (Exhibit A, p. 60). DDS also determined that Petitioner had a moderately limited ability to interact appropriately with the general public (Exhibit A, p. 60).

DDS noted that new evidence was presented which supported an improvement in the claimant's conditions after an ALJ Decision dated July 28, 2022 (Exhibit A, p. 55). DDS referenced mental health treatments from February 9, 2023 to December 8, 2023 and concluded that Petitioner's mental health conditions appeared to be relatively controlled (Exhibit A, p. 55). However, the records show an ongoing need for substantial mental health treatment and interventions. Although Petitioner reported "feeling good" or feeling better, the records show that Petitioner was consistently struggling with sleeplessness, depression and anxiety (Exhibit A, p. 55). Additionally, Petitioner's mental conditions cause her to have issues maintaining attention for more than 20 minutes, getting along with others and trouble following instructions (Exhibit A, p. 55). Further, Petitioner's mental health struggles span for over a decade and are well-documented. The record reflects mental health interventions dating back to 2013. A single instance in which Petitioner reported an improvement in mood does not negate the substantial record of mental health treatment.

Petitioner disputed DDS' assessment and alleged severe exertional limitations caused by her ailments. At the hearing, Petitioner testified that she could only stand for 10-15 minutes at a time before requiring a break. Petitioner testified that she needs to lean on things to stay upright and that she had issues with her knees, lower back, hip and pubic bone. Petitioner reported that she has a knee brace but does not walk with a supportive device such as a cane. Petitioner testified that she can not sit comfortably for more than five minutes without needing to move. She testified that she has difficulty walking due to her COPD and is frequently out of breath. Petitioner reported that she can lift objects up to ten pounds. Additionally, she testified that she has blurry vision from cataracts.

Petitioner reported debilitating mental illnesses, including bipolar disorder, depression and anxiety. Petitioner testified that she cannot complete tasks and often misses appointments due to her depression. Petitioner reported that she frequently forgets things and has issues with her memory. Petitioner reported that she struggles to get out of bed in the morning due to her depression and that she cannot stay concentrated enough to engage in hobbies. When she experiences a manic episode, she loses weight and cannot sleep. Petitioner testified that she has difficulty leaving the house due to her mental state and frequently self-isolates. Petitioner's testimony regarding her impairments was detailed and credible.

Based on the medical evidence, DDS properly determined that Petitioner had the physical capacity to perform sedentary work. The report from AAA Examinations had internal contradictions and no information was cited to explain the conclusions regarding Petitioner's physical restrictions. Insufficient medical evidence was introduced to support a physical RFC of less than sedentary.

Although Petitioner maintains the physical capacity to perform sedentary work as defined by 20 CFR 416.967(a), Petitioner is unable to perform the full range of sedentary work due to her mental illnesses, which are well-documented and severe, and thus, the occupational base is eroded by her additional limitations or restrictions. SSR 96-9p. 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 reported briefly working in a plant nursery in [REDACTED]. She testified that she only worked there for a few weeks and that her work consisted of planting and watering flowers. Petitioner testified that she had no other employment in the last 15 years. Due to the brief nature of her work in the nursery, the record shows that Petitioner has no history of past relevant work because she was not employed long enough at that position to learn the trade. Therefore, Petitioner cannot be found disabled, or not disabled, at Step 4, and the assessment continues to Step 5.

Step Five

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 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, 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 18-■) for purposes of Appendix 2. Petitioner completed high school and is categorized as an unskilled worker. 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, result in a finding that Petitioner is not disabled. However, as referenced above, the occupational base is eroded by additional limitations or restrictions.

Petitioner has nonexertional limitations including postural limitations. DDS concluded that Petitioner could occasionally climb ramps/stairs, never climb ladders/ropes/scaffolds, could occasionally stoop (i.e. bending at the waist), could never kneel, could occasionally crouch and could never crawl (Exhibit A, p. 58). DDS noted manipulative limitations reaching overhead (Exhibit A, p. 58). Regarding environmental limitations, DDS determined that Petitioner must avoid all exposure to extreme hot, extreme cold, wetness, and hazards (Exhibit A, p. 58). DDS also noted that Petitioner should avoid concentrated exposure to noise and fumes (Exhibit A, p. 58). Regarding limitations related to Petitioner's mental disabilities, the evidence shows ongoing challenges related to Bipolar Disorder, depression and anxiety. These illnesses result in moderate limitations with Petitioner's ability to carry out detailed instructions, to concentrate for extended periods of time, and to complete a normal workday or workweek without interruptions from psychologically based symptoms (Exhibit A, p. 60). Additionally, DDS noted limitations related to Petitioner's ability to interact with the general public (Exhibit A, p. 60).

Given the combination of exertional and nonexertional limitations, MDHHS has failed to present evidence of a significant number of jobs in the national and local economy that Petitioner has the vocational qualifications to perform in light of her RFC, age, education, and work experience. Therefore, the evidence is insufficient to establish that Petitioner is able to adjust to other work. Accordingly, Petitioner is found disabled at Step 5 for purposes of the SDA benefit program.

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 disabled for purposes of the SDA benefit program.

DECISION AND ORDER

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 **disabled** for purposes of the SDA benefit program.

Accordingly, MDHHS's determination is **REVERSED**. MDHHS IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER.

1. Reprocess Petitioner's [REDACTED], 2023 SDA redetermination to determine if all the other non-medical criteria are satisfied in accordance with Department policy;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified; and
3. Notify Petitioner of its decision in writing.

LJ/pt



Linda Jordan
Administrative Law Judge

