



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: August 16, 2024
MOAHR Docket No.: 24-005747
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 11, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Jamila Goods, Eligibility Specialist.

During the hearing, Petitioner waived the time period for the issuance of this decision in order to allow for the submission of additional records. Petitioner did not submit any additional documentation. The record was subsequently closed on August 12, 2024, and the matter is now before the undersigned for a final determination on the evidence presented.

ISSUE

Did the Department properly determine 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 September [REDACTED] 2023, Petitioner submitted an application seeking cash assistance benefits on the basis of a disability.
2. On or around January [REDACTED] 2024, the Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program (Exhibit A, pp. 4-5).
3. On May [REDACTED] 2024, the Department sent Petitioner a Notice of Case Action informing him that his SDA application was denied for his failure to verify information (Exhibit A, pp. 793-796).

4. On May █ 2024, the Department sent Petitioner a corrected Benefit Notice denying Petitioner's SDA application based on DDS' finding that he was not disabled (Exhibit A, pp. 797-800).
5. On May █ 2024, Petitioner submitted a timely written Request for Hearing disputing the Department's denial of his SDA application (Exhibit A, pp. 6-8).
6. Petitioner alleged disabling impairments due to arthritis and hernias.
7. As of the hearing date, Petitioner was █ years old with a January █ 1975 date of birth.
8. Petitioner obtained a college degree in hospitality from █ █ █ and in international business administrative from █. Petitioner has a reported work history as a lead associate at █ and a cook.
9. 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), 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.

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 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, for 90 or more days. 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). The duration requirement for purposes of SDA eligibility is 90 or more days. BEM 261 (April 2017), p. 2.

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 was not working during the period for which assistance might be available. Because Petitioner was not engaged in SGA, he is not ineligible under Step 1, and the analysis continues to Step 2.

Step Two

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

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

situations; and (vi) dealing with changes in a routine work setting. 20 CFR 416.921(b). A claim may be denied at Step 2 only if the evidence shows that the individual's impairments, when considered in combination, 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.

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 Services*, 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 was thoroughly reviewed and is briefly summarized below:

Petitioner was seeking general care at the [REDACTED] [REDACTED] (Exhibit A, pp. 47-49; 171-172; 176-181; 185-189; 256-258). In January 2022, Petitioner had Magnetic Resonance Imaging (MRI) of his cervical and lumbar spine which revealed he had mild stenosis/arthritis. On March [REDACTED] 2022, Petitioner had a diagnosis of non-recurrent unilateral inguinal hernia without obstruction or gangrene. Petitioner had right inguinal pain. Petitioner was referred for general surgery. On April [REDACTED] 2022, Petitioner presented for a general examination. Petitioner reported significant ongoing psychosocial stress. Petitioner reported that he was previously heavily involved with skateboarding but had to limit his involvement due to his injuries. Petitioner stated that skateboarding was an outlet for stress and a part of his identity. Petitioner reported that limiting the activity caused a significant negative impact on his wellbeing. Petitioner also reported significant social isolation. Petitioner was prescribed Prilosec (for stomach acid). Petitioner was also using topical Arnica (for arthritis), Boswellia Serrata (treatment for colitis), Vitamin B-12, Lysine and Vitamin B Complex/Folic Acid. On June [REDACTED] 2022, Petitioner had a virtual visit. Petitioner reported acute chronic back pain and right-side pain. Petitioner stated he was not interested in a surgical resolution for his hernia. Petitioner was referred to physical therapy. On June [REDACTED] 2022, Petitioner was seen for his hernia. Petitioner was advised of his options of conservative management versus surgical repair. On October [REDACTED] 2022, Petitioner reported that he had been hospitalized at the University of Michigan because his hernia was causing him paranoia. Petitioner reported increased pain and swelling due to his hernia. Petitioner stated that he had an allergy to Gore-Tex and polyester which

was the reason he could not have surgery to repair his hernia. Petitioner indicated that his hernia symptoms had greatly improved over the previous month. Petitioner reported that he had difficulty sleeping. Petitioner stated that he had recently returned to work after his hospitalization. Petitioner reported struggling when he returned to work and perceived that his coworkers were angry with him. Petitioner was diagnosed with a mood disorder and recommended to follow up with psychiatry and psychology. On November █ 2023, Petitioner presented with complaints of lumbar and cervical pain.

Petitioner was engaged in physical therapy at █ (Exhibit A, pp. 47-170-171; 173-176; 181-183). On March █ 2022, Petitioner reported that he continues to have pain but had some improvement in his mobility and stiffness. Petitioner had moderate lumbar paraspinals soft tissue tension along with still posterior to anterior at his hip and with stiff posterior to anterior at T3-10. On March █ 2022, Petitioner reported ongoing lower back pain that worsened with lifting and carrying repetitively at work. Petitioner also indicated that his hernia caused him a lot of pain. On April █ 2022, Petitioner continued to report pain in his lower back and hip. Petitioner was discharged from physical therapy, as it was determined that he could continue to progress at home.

Petitioner had a lapse in treatment at █ but resumed treatment on October █ 2023 (Exhibit A, pp. 258-290). Petitioner had a follow up for a bicycle accident. Petitioner was recommended to rest and follow-up in two weeks. On October █ 2023, Petitioner presented with complaints of hair loss and pain due to his hernia. Petitioner was advised to seek stress management and surgery for hernia repair. On November █ 2023, Petitioner reported that his hernia pain was prominent, but the pain was relieved when he laid down. Petitioner continued to report paranoid feelings. Petitioner was recommended to restart physical therapy.

Petitioner was also seeking psychological treatment at the █ (Exhibit A, pp. 189-193). On May █ 2022, Petitioner had an intake appointment/assessment. Petitioner reported a history of anxious moods. Petitioner was diagnosed with an adjustment disorder with anxiety. Petitioner was recommended to engage in supportive therapy and have a psychological assessment. On July █ 2022, Petitioner had a follow-up appointment. Petitioner reported a recent positive mood and that he was doing "fantastic." Petitioner continued to describe concerns for his neighborhood and the people surrounding him. Petitioner was advised to seek adjustment counseling.

On September █ 2022, Petitioner appeared at the emergency department at the █ (Exhibit A, pp. 194-255). Petitioner presented with complaints of abdominal pain, and that he believed he had been poisoned and that people were trying to kill him. Petitioner was diagnosed with acute psychosis. It was determined that Petitioner had an untreated unspecified anxiety disorder and a remote history of psychiatric admission where he was treated with Seroquel and Depakote and had no consistent or recent mental health follow up. Petitioner was tangential and intermittently disorganized during conversation and reported little sleep, pervasive paranoid thoughts regarding being harmed by others, grandiosity and impulsive behaviors. Petitioner demonstrated elevated risk of violence with plans to seriously harm or kill anyone who he

believed had been breaking into his home to poison him. Petitioner identified no social support and had isolated himself from friends and family due to his mental condition. Petitioner's presentation was concerning for possible acute manic episode in the setting of untreated bipolar disorder versus unspecified psychosis. It was also determined that given Petitioner's pervasive paranoia and remaining presentation with active plans to harm any suspected intruder, Petitioner was at a moderate to high risk of harm to others and an inadvertent harm to himself. Petitioner required inpatient admission for stabilization of his psychiatric condition. On September █ 2022, Petitioner was discharged. Petitioner was advised to seek outpatient psychiatric care.

On October █ 2023, Petitioner presented at the emergency department at █ with neck, facial and wrist pain after falling from his bike (Exhibit A, pp. 322-335). Petitioner had x-rays completed on his wrist which revealed no acute osseous abnormality. Petitioner also had a computed tomography (CT) scan of his cervical spine, face and head. The CT of the cervical spine revealed no fracture, traumatic malalignment or prevertebral soft tissue swelling. It was noted that Petitioner had degenerative changes. The CT of Petitioner's facial bones revealed no facial fracture, his sinuses contained no fluid, and he had no significant facial hematoma. The CT scan of Petitioner's head revealed no acute cortical cerebral vascular accident, mass effect, intracranial hemorrhage or skull fracture. Petitioner had mild bilateral ethmoid and left frontal mucosal thickening. Petitioner's paranasal sinuses and mastoid air cells were negative.

On November █ 2023, Petitioner had a comprehensive mental examination pursuant to his SSA case (Exhibit A, pp. 308-313). Petitioner's chief complaint was paranoia and delusional thinking. Petitioner was diagnosed with delusional disorder with paranoia as evidenced by the presence of delusions that he was being poisoned and that his family was conspiring against him. It was determined that Petitioner had no limitations in understanding, carrying out and remembering one step and complex instructions. Petitioner had minor limitations in sustaining concentration and persisting in a work-related activity at a reasonable pace, due to an unsteady gait as he walked. Petitioner was determined to have major limitations in his ability to maintain effective social interaction on a consistent basis with supervisors, coworkers and the public due to struggling with paranoid delusions that others were trying to poison him or conspiring against him. It was also found that Petitioner had major limitations in his ability to deal with normal pressures in a competitive work setting due to struggling with paranoid delusions.

On December █ 2023, Petitioner had a comprehensive physical examination pursuant to his SSA case (Exhibit A, pp. 157-163). Petitioner's chief complaint was a disability due to arthritis and hernias. Petitioner was diagnosed with lumbar degenerative disc disease, bilateral sacroiliac joint arthritis and cervical degenerative disc disease. It was determined that Petitioner had a slow, guarded gait that supported his complaint of back pain, difficulty dressing and rising from the chair, and limited lumbar flexion and extension. Upon examination, Petitioner had tenderness over the lumbar spine and sacroiliac joints. Imaging revealed disc bulges and degenerative disk disease which supported the back pain diagnosis. It was determined that the petitioner had mild limitations with sitting due

to back and neck pain. Petitioner had mild limitations with standing and walking due to back pain. Petitioner did not need the assistance of a walking device with regard to short and long distances. Petitioner had mild limitations with lifting due to neck pain. Petitioner had mild limitations with carrying weight due to back pain. Petitioner had limitations with bending, stooping, crouching and squatting but would be able to perform the motions on an occasional basis due to back and neck pain. Petitioner displayed limitations with reaching, grasping, handling, fingering and feeling, but it was determined that he would be able to perform those motions infrequently due to neck pain. It was determined that Petitioner had no relevant visual, communicative or workplace environmental limitations.

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 and the listing criteria applicable at the time of Petitioner's assessment date, listing 1.00 (musculoskeletal disorders); 5.00 (digestive disorders); 12.03 (schizophrenia spectrum and other psychotic disorders); and 12.08 (personality and impulse control disorders). A thorough review of 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 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).

In this case, Petitioner alleges exertional limitations due to his impairments. Petitioner testified that he experiences pain in his lower back. Petitioner stated that the arthritis in his back makes him inflexible and he cannot bend or lift. Petitioner stated that the pain in his groin area from his hernias causes intense throbbing pain. Petitioner indicated that the pain worsens with prolonged periods of standing. Petitioner reported that the pain from the hernias is more intense than that of which he experienced when he broke a bone.

Petitioner testified that he is able to walk 1 to 1.5 miles at a time. Petitioner reported that he is unable to sit for more than 45 minutes to an hour before he begins experiencing pain. Petitioner testified that he is able to stand for a period of six hours but will require multiple days of recovery due to pain. Petitioner also testified that he is able to lift up to 30 pounds, but again, would need recovery time. Petitioner reported that he can bend and squat with limitation. Petitioner stated that he can descend stairs but can only ascend stairs with difficulty.

Petitioner also reported that he lives alone and is able to perform his own hygiene, chores, grocery shopping and is able to dress himself. Petitioner stated he does not have a car and transports himself via bus or bike. Petitioner indicated that he spends his day tending to his garden, performing art, spending time on social media and on some days, he rides his bike and skateboards. Petitioner reported that he used to be very active but can only perform physical activities on a limited basis.

Petitioner testified that he has not had any surgery. Petitioner reported that he is attempting less invasive pain treatments such as homeopathic remedies and physical therapy. Petitioner is also taking Cymbalta and Tylenol for pain management. Petitioner stated that despite the above treatments, he still experiences significant pain.

The evidence presented is considered to determine the consistency of Petitioner's statements regarding the intensity, persistence and limiting effects of his symptoms. A thorough review of Petitioner's medical records including records presented from Petitioner's treating physicians was completed. Petitioner repeatedly complained of lower back pain and imaging revealed he arthritis in his spine. Petitioner also had chronic pain in his groin due to his hernia. Petitioner had some limitations with prolonged periods of sitting and standing but was still able to sit for a period of 45 minutes and stand for six hours. Petitioner could also walk around 1.5 miles. Petitioner reported that he could occasionally lift up to 20 pounds. With respect to Petitioner's exertional limitations, it is found, based on a review of the entire record, that Petitioner maintains the physical capacity to perform light work as defined by 20 CFR 416.967(a).

Although Petitioner did not allege any mental impairments, the undersigned ALJ is required to review the complete medical history. Program Operations Manual System (POMS) DI 22505.001. Therefore, Petitioner's mental impairment RFC will be considered. 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). 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: (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), to which a five-point scale is applied (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).

In September 2022, Petitioner was admitted for inpatient psychiatric treatment for nine days. Petitioner's presentation was concerning for possible acute manic episode in the setting of untreated bipolar disorder versus unspecified psychosis. It was also determined that given Petitioner's pervasive paranoia and remaining presentation with active plans to harm any suspected intruder, Petitioner was at a moderate to high risk of harm to others and an inadvertent harm to himself. Additionally, on November █ 2023, Petitioner's

psychiatric comprehensive evaluation revealed that Petitioner had no limitations in understanding, carrying out and remember one step and complex instructions. Petitioner had minor limitations in sustaining concentration and persisting in a work-related activity at a reasonable place due to an unsteady gait as he walks. Petitioner was determined to have major limitations in his ability to maintain effective social interaction on a consistent basis with supervisors, coworkers and the public due to struggling with paranoid delusions that others are trying to poison him or conspiring against him. It was also found that Petitioner has major limitations in his ability to deal with normal pressures in a competitive work setting due to struggling with paranoid delusions.

Based on the medical records presented, as well as Petitioner's testimony, Petitioner has mild limitations with respect to his ability to understand, remember, or apply information; marked limitations with respect to his ability to interact with others; marked limitations in her ability to concentrate, persist, or maintain pace; and marked limitations in his ability to adapt or manage oneself. Thus, Petitioner has mild to marked limitations on his nonexertional ability to perform basic work activities.

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 limited past relevant work experience from the past 5 years requires a medium RFC. Because Petitioner's current exertional RFC limits him to light work, Petitioner is incapable of performing any past relevant work. 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 the Department 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).

In this case, Petitioner was ■ years old, and thus, considered to be a younger individual (45-49 years) for purposes of Appendix 2. Petitioner has a college degree, and his recent employment was unskilled. 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 Petitioner's exertional RFC, the Medical-Vocational Guidelines, 201.09, result in a finding that Petitioner is not disabled.

However, as referenced above, Petitioner has nonexertional impairments. Petitioner's nonexertional impairments further erode his occupational base. Petitioner has mild limitations with respect to his ability to understand, remember, or apply information; marked limitations with respect to his ability to interact with others; marked limitations in her ability to concentrate, persist, or maintain pace; and marked limitations in his ability to adapt or manage oneself.

The Department 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 his mental and physical 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.

DECISION AND ORDER

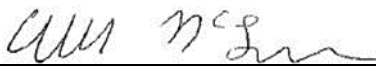
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Petitioner disabled for purposes of the SDA benefit program.

Accordingly, the Department's SDA determination is **REVERSED**.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Redetermine Petitioner's SDA eligibility as of September █ 2023, to determine if all the other non-medical criteria are satisfied and notify Petitioner of its determination;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified; and
3. Review Petitioner's continued SDA eligibility in January 2025.

EM/dm



Ellen McLemore
Administrative Law Judge

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

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

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

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

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

Via-Electronic Mail :

DHHS
Susan Noel
Wayne-Inkster-DHHS
**MDHHS-Wayne-19-
Hearings@michigan.gov**

KaradshehL

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]