



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: September 9, 2024
MOAHR Docket No.: 24-007308
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 pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250. After due notice, a hearing was held on August 6, 2024, via teleconference. Petitioner appeared and represented herself. Kimberly Polesek appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence as MDHHS Exhibit A, pp. 1-250.

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. On [REDACTED] 2023, Petitioner applied for SDA (Exhibit A, p. 70).
2. On June 5, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of the SDA program because her physical or mental impairment did not prevent employment for 90 days or more (Exhibit A, pp. 13-14). MRT also found that Petitioner was capable of performing other work (Exhibit A, p. 14).
3. On June 5, 2024, MDHHS sent Petitioner a Notice of Case Action denying the application for SDA, effective November 1, 2023 ongoing, because MRT found Petitioner not disabled (Exhibit A, p. 8).
4. On June 11, 2024, Petitioner submitted a timely hearing request to dispute MDHHS' determination that Petitioner was not disabled (Exhibit A, p. 3).

5. The medical records reflect the following:
- a. Petitioner was born missing her right fibula bone. As a result, she has a prosthetic leg and suffers from chronic pain.
 - b. On August 30, 2023, medical provider, Keith Abraham FNP examined Petitioner and reported psychiatric symptoms present, including [REDACTED], [REDACTED], [REDACTED] and [REDACTED] (Exhibit A, p. 129). Concerning the musculoskeletal system, Dr. Abraham noted that the right fibula was absent, the right leg was significantly shorter than left, and bilateral wrist movements were painful (Exhibit A, p. 129).
 - c. On October 21, 2023, Petitioner was admitted to the Corewell Health Gerber Emergency Hospital due to her anxiety disorder and high blood pressure (Exhibit A, p. 204). Petitioner's physical examination was positive for anxious mood with rapid and pressured speech, hyperactivity and paranoid thoughts (Exhibit A, p. 205).
 - d. On December 12, 2023, medical provider, Keith Abraham examined Petitioner and reported that Petitioner suffered from chronic illness related to congenital absence of fibula, anxiety and depression (Exhibit A, p. 51). The medical provider estimated that Petitioner's diagnoses required medical treatment for a lifetime (Exhibit A, p. 52). The medical provider indicated that Petitioner required assistance for meal preparation, shopping, laundry and housework (Exhibit A, p. 52). The medical provider indicated that Petitioner could not work at usual occupation and could not work at any job (Exhibit A, p. 52).
 - e. On February 10, 2024, Petitioner was examined by Olympus Health Michigan – Norton Shores (Exhibit A, p. 109). The practitioner noted moderate limitations standing, walking, lifting, carrying, bending and squatting due to right ankle flexion contracture/absent fibula (Exhibit A, p. 246). The practitioner noted moderate environmental limitations due to right ankle flexion contracture/absent fibula (Exhibit A, p. 247).
 - f. On February 28, 2024, medical provider, Taylor Glomb RMA, conducted a patient health questionnaire with Petitioner (Exhibit A, p. 170). Petitioner was found to have [REDACTED] and [REDACTED] (Exhibit A, pp. 170-171).
 - g. On March 4, 2024, medical provider, Keith Abraham, examined Petitioner reporting a positive screen for depressive type symptoms, continued treatment for [REDACTED] (Exhibit A, p. 169).
 - h. On March 28, 2024, medical provider, Health Wolf LMSW, conducted a behavioral health and psychosocial assessment noting that Petitioner appeared anxious, angry, depressed, and irritable (Exhibit A, p. 160). Petitioner reported symptoms including [REDACTED], [REDACTED], [REDACTED] lack of motivation, memory

██████, ██████, ██████ poor concentration and decision making, racing thoughts, worrying (Exhibit A, p. 164). The medical provider noted and confirmed previous diagnosis of ██████ (Exhibit A, p. 165).

6. On the date of the hearing, Petitioner was ██████ years old, born ██████, 1982, ██████ tall and weighed approximately ██████ pounds.
7. Petitioner is a ██████ graduate (Exhibit A, p. 30).
8. At the time of application, Petitioner was not employed.
9. Petitioner has no relevant past employment history. At the time of application, Petitioner had not worked in over 15 years.
10. Petitioner alleged disabling impairments due to various medical conditions, including ██████ ██████, major ██████ disorder, ██████, ██████ ██████ ██████), chronic pain syndrome of right lower extremities, chronic ██████ ██████ next to organs and ██████ ██████ (██████) (Exhibit A, p. 16).
11. Petitioner has a pending disability claim with the Social Security Administration.

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. MDHHS administers SDA pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. MDHHS administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180.

In this case, Petitioner applied for SDA alleging a disability. Petitioner alleged that she suffered from chronic pain due to a right leg deformity and unequal leg lengths (Exhibit A, p. 121). She also alleged chronic fatigue and exhaustion from various physical conditions and mental health conditions, including ██████ and ██████ (Exhibit A, p. 121).

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 [REDACTED], [REDACTED], major [REDACTED] disorder, [REDACTED], [REDACTED], [REDACTED] r [REDACTED] ([REDACTED]), chronic pain syndrome of right lower extremities, chronic [REDACTED], [REDACTED] next to organs and attention deficit [REDACTED] ([REDACTED]) (Exhibit A, p. 16). Petitioner reported that her disorders affect her ability to work due to severe pain, being mentally unstable and unable to focus, feeling exhausted, weak and anxious (Exhibit A, p. 28). Petitioner reported that due to the missing bone in her leg, she was unable to stand for more than five minutes and only able to walk short distances (Exhibit A, p. 54).

MDHHS denied Petitioner at Step 2, alleging that Petitioner's physical and mental impairments did not prevent employment for 90 days or more. MDHHS determined that Petitioner had Adult Medically Determinable Impairments (MDI) related to the musculoskeletal system, mental disorders, and respiratory disorders. MDHHS rated these MDIs severe (Exhibit A, p. 18). However, MDHHS determined that the individual's statements about the intensity, persistence, and functionally limiting effects of the symptoms were not supported by objective medical evidence and that Petitioner's statements were only partially consistent with the medical evidence on file (Exhibit A, p. 20).

A review of the medical evidence shows that Petitioner has been treated for mental disorders related to anxiety, depression and ADHD. Physicians have rated Petitioner's mental disorders as severe, and her mental disorders have caused her to require emergency medical care. At the hearing, Petitioner credibly testified that her mental disorders prevent her from concentrating, completing tasks and following instructions.

Additionally, she testified that she has chronic pain caused by her prosthetic leg and that any exertion increases the pain. Petitioner testified that her right leg was approximately six inches shorter than her left and disputed the medical record that indicated that her right leg was shorter by three to four centimeters. MDHHS found that Petitioner had exertional limitations and could stand and/or walk for a total of four hours and could sit with normal breaks for about six hours in an eight-hour workday. Petitioner disputed this conclusion and testified that she could only stand for about five minutes at a time. MDHHS also found postural limitations related to Petitioner's [REDACTED] disorders.

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. Petitioner's mental and physical disorders are documented and expected to continue throughout Petitioner's life. The impact of her disorders on her ability to work is more than slight based on the evidence presented. 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 1.18 ([REDACTED]); 3.03 ([REDACTED]); 12.04 ([REDACTED]); 12.06 ([REDACTED]); 12.11 ([REDACTED]) were considered.

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).

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 nonexertional limitations or restrictions include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e., unable to

tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi). *For mental disorders, functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. Id.; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication, and other treatment and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1).* Where the evidence establishes a medically determinable mental impairment, the degree of functional limitation must be rated, taking into consideration chronic mental disorders, structured settings, medication, and other treatment. The effect on the overall degree of functionality is evaluated under four broad functional areas, assessing the ability to (i) understand, remember, or apply information; (ii) interact with others; (iii) concentrate, persist, or maintain pace; and (iv) adapt or manage oneself. 20 CFR 416.920a(c)(3). A five-point scale is used to rate the degree of limitation in each area: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. 20 CFR 416.920a(c)(4).

A two-step process is applied in evaluating an individual's symptoms: (1) whether the individual has a medically determinable impairment that could reasonably be expected to produce the individual's alleged symptoms and (2) whether the individual's statement about the intensity, persistence and limiting effects of symptoms are consistent with the objective medical evidence and other evidence on the record from the individual, medical sources, and nonmedical sources. SSR 16-3p.

Regarding Petitioner's RFC, DDS determined that Petitioner had exertional limitations, because her ability to push/and/or pull in lower extremities is limited, she could occasionally lift and/or carry 20 pounds, could frequently lift and/or carrying 10 pounds, could stand and/or walk (with normal breaks) for a total of four hours, and could sit (with normal breaks for approximately six hours in an eight-hour workday (Exhibit A, p. 87). DDS found that Petitioner's nonexertional restrictions included postural limitations caused by her absent fibula, which caused occasional limitations climbing ramps, stairs and ladders, and frequent limitation balancing, stooping, kneeling and crouching (Exhibit A, p. 88). DDS found that Petitioner could perform sedentary work based on her physical RFC (Exhibit A, p. 90).

Additionally, DDS found that Petitioner had environmental limitations due to her absent [REDACTED], [REDACTED] and [REDACTED] which include avoiding concentrated exposure to extreme cold, vibration, fumes, dust, gases, poor ventilation and hazards (Exhibit A, p. 88). Regarding mental residual functional capacity, DDS found that Petitioner had mild limitations remembering detailed instructions but was able to remember simple instructions (Exhibit A, p. 89). DDS found that Petitioner had a moderately limited ability to carry out detailed instructions and ability to maintain attention and concentration for extended periods (Exhibit A, p. 89). DDS found that Petitioner had a moderately limited ability to interact appropriately with the general public (Exhibit A, p. 90). DDS noted that due to Petitioner's

anxiety, she would best function in a setting in which her interactions with the general public were limited.

Petitioner testified that she had difficulty [REDACTED], [REDACTED] and [REDACTED]. Petitioner testified that she could not kneel due to her [REDACTED]. Petitioner testified that she is not able to drive a car due to an accident caused by her prosthetic leg. Petitioner testified that she is able to climb a couple of stairs at a time and can only stand for about five minutes at a time. Petitioner testified that she occasionally walks with a crutch or uses a motorized scooter when she goes to the store. Petitioner testified that her mental conditions often prevent her from leaving the house. She testified that she struggles to process information due to her [REDACTED] depression, and anxiety. Petitioner testified that she has difficulty remembering things and that she cannot concentrate, complete tasks or follow instructions due to her [REDACTED]. Petitioner testified that she is unable to concentrate even with medication for [REDACTED]. Regarding her activities of daily living, Petitioner is able to dress and undress herself but needs help bathing and showering due to her leg deformity. She is able to do light housework for short periods of time, but the pain of exertion often becomes overwhelming, and she requires frequent rest. Petitioner testified that she can no longer do many of her hobbies, such as bike riding and swimming, due to the pain, and that she reads the bible to pass the time.

Petitioner disputed DDS' determination that she could stand and/or walk (with normal breaks) for a total of four hours and could sit (with normal breaks for approximately six hours in an eight-hour workday (Exhibit A, p. 87). However, she did not present sufficient objective medical evidence to support rebut DDS' conclusion.

The medical evidence shows a documented need for mental health intervention. Petitioner was hospitalized related to her [REDACTED] in [REDACTED] 2023, and throughout 2023 and 2024, medical practitioners have confirmed psychiatric symptoms related to her conditions, including [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED]. [REDACTED] October [REDACTED] 2023, Petitioner was admitted to Corewell Health Gerber Hospital Emergency Hospital complaining of [REDACTED] (Exhibit A, p. 204). Petitioner's diagnosis was an [REDACTED], and she presented with anxious mood and pressured speech (Exhibit A, p. 205). On March 29, 2024, Petitioner was examined by mental health professionals who found psychiatric symptoms present, including anxiety, depression, fatigue/loss of energy, nervousness, racing thoughts, stress and worrying (Exhibit A, p. 164). The provider noted that Petitioner's mood was anxious, angry, depressed, irritable, crying, and racing thoughts were present (Exhibit A, p. 165).

Based on Petitioner's exertional limitations, DDS properly found that Petitioner is able to perform sedentary work. However, given Petitioner's nonexertional limitations, including postural, environmental and mental, Petitioner is unable to perform the full range of sedentary work, 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).

In this case, Petitioner reported no past relevant work history. At the time of application, Petitioner had not worked in over 15 years. Because Petitioner does not have a past relevant work history, Petitioner cannot be found to be disabled or not disabled at this step and the analysis 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 the hearing, and thus, considered to be a younger individual (age 18-44) for the

purposes of Appendix 2. She is a [REDACTED] with no past relevant work history. As discussed above, Petitioner maintains the exertional [REDACTED] for work activities on a regular and continuing basis to meet the physical demands to perform sedentary work activities.

Additionally, Petitioner has nonexertional impairments which limit a function or cause an environmental restriction. Petitioner's nonexertional restrictions include [REDACTED] caused by her [REDACTED] which include occasional limitations climbing ramps, stairs and ladders, and frequent limitation balancing, stooping, kneeling and crouching (Exhibit A, p. 88). Petitioner has environmental limitations due to her [REDACTED] [REDACTED] and [REDACTED] which include avoiding concentrated exposure to extreme cold, vibration, fumes, dust, gases, poor ventilation and hazards (Exhibit A, p. 88). DDS also found moderate limitations caused by her mental disorders, including [REDACTED] [REDACTED] difficulty [REDACTED] and difficulty [REDACTED] [REDACTED] (Exhibit A, pp. 89-90).

As described above, Petitioner is capable of performing less than a full range of sedentary work. Given these circumstances, MDHHS was required 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. It failed to do so here. Therefore, notwithstanding the disability finding based on the medical vocational guidelines, the evidence would also be 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 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 THE ORDER WAS ISSUED:

1. Reprocess Petitioner's [REDACTED] 2023 SDA application 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

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

