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GOVERNOR

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

MARLON BROWN
DIRECTOR

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

Date Mailed: March 18, 2025
MOAHR Docket No.: 24-011277
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

HEARING DECISION

Following Petitioner's request for hearing, this matter is before the undersigned Administrative Law Judge (ALJ) pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held on December 4, 2024, via teleconference. Petitioner appeared unrepresented. April Sprague, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing has MDHHS Exhibit A, pp. 1-475.

At the hearing, Petitioner expressed her desire to submit additional medical evidence. MDHHS had no objection to extending the record. The parties waived any violation of statutory or policy time standards. On December 9, 2024, the undersigned ALJ issued Interim Order Extending the Record to provide the parties an additional 30 days to submit medical evidence. Additional medical evidence was due to the Michigan Office of Administrative Hearings and Rules (MOAHR) by January 3, 2025.

On December 23, 2024, MOAHR received a document from Petitioner, which was admitted as Petitioner Exhibit 1, p. 1. On January 7, 2025, Petitioner submitted a letter titled "Medical Recommendation for Jury Duty Exemption Statement Letter." However, because this document was submitted after the deadline for additional medical evidence, it was rejected and not made part of the record. The matter is now before the undersigned ALJ 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. On [REDACTED] [REDACTED] 2024, Petitioner applied for SDA as a disabled individual.
2. On April 22, 2024, Petitioner submitted Medical-Social Questionnaire to MDHHS (Exhibit A, p. 28). Petitioner alleged that she suffered from hip and back pain, which ran down the right leg and across her entire back (Exhibit A, p. 29). Petitioner alleged that she was not able to stand for more than 15 minutes at a time.
3. On July 4, 2024, the Medical Review Team (MRT)/Disability Determination Service (DDS) found Petitioner not disabled for purposes of SDA because she was capable of performing past relevant work (PRW) (Exhibit A, p. 7).
4. On July 25, 2024, MDHHS sent Petitioner a Notice of Case Action stating that Petitioner's SDA application was denied, effective April 16, 2024 ongoing, because she was not disabled (Exhibit A, p. 472).
5. On October 11, 2024, Petitioner filed a Request for Hearing to dispute MDHHS' determination regarding her disability status (Exhibit A, p. 4).
6. The medical records reflect the following, in relevant part:
 - a. On February 20, 2024, Corewell Health Orthopedic Institute examined Petitioner (Exhibit A, p. 186). The reviewing physician diagnosed Petitioner with chronic bilateral low back pain with sciatica, and sciatica laterally unspecified (Exhibit A, p. 187). The physician noted that Petitioner had a degenerative disease of the lumbar spine and X-rays demonstrated mild degenerative change in both hips without fracture or aggressive bony lesion, and mild narrowing and degenerative spurring in the right hip joint (Exhibit A, pp. 191-196). The physician concluded that Petitioner suffered from mild right hip osteoarthritis and lower lumbar degenerative disc disease (Exhibit A, p. 196). Petitioner received steroid injections in her right hip (Exhibit A, p. 197).
 - b. On January 22, 2024, Corewell Health Orthopedic Institute examined Petitioner (Exhibit A, p. 203). The physician found mild signs of osteoarthritis characterized by loss of joint space and moderate degenerative disc disease, as well as facet arthropathy (Exhibit A, p. 208).
 - c. On September 1, 2023, Dr. [REDACTED] [REDACTED] indicated that Petitioner had early dysplasia and mild to moderate arthritis radiographically of the right hip (Exhibit A, p. 292). Dr. [REDACTED] recommended an additional cortisone shot and noted that previous shots had not helped Petitioner's condition (Exhibit A, p. 294).
 - d. On August 6, 2023, Dr. [REDACTED] [REDACTED] reviewed an MRI of Petitioner's right hip and found mild narrowing and degenerative spurring of the right hip

joint and degenerative disc disease in the lower visualized lumbar spine (Exhibit A, p. 289).

- e. On June 03, 2023, Petitioner received a right hip steroid injection (Exhibit A, p. 441).
 - f. On April 30, 2023, Petitioner was admitted to McLaren Flint Hospital for chronic low back pain, right hip pain and hypertension (Exhibit A, pp. 157, 299). Petitioner was diagnosed with intractable low back pain, pain of right hip joint, leukocytosis, hypertensive urgency and deep vein thrombosis (Exhibit A, p. 157). A physical therapist reviewing Petitioner's movements noted that Petitioner displayed modified independence with roll right, supine to sit, sit to supine and sit to stand (Exhibit A, p. 416). Petitioner was discharged on May 9, 2023 (Exhibit A, p. 299).
 - g. On April 26, 2023, Petitioner received a lumbar epidural steroid injection (Exhibit A, p. 443).
 - h. From March 28, 2022 to June 22, 2024, Dr. [REDACTED] examined Petitioner on a monthly or bi-monthly basis (Exhibit A, pp. 115-128, 219-287). Dr. [REDACTED] noted Petitioner's right hip was tender with weight-bearing and she was unable to flex or extend right hip greater than 10-15 degrees. Dr. [REDACTED] assessment of Petitioner's conditions included essential (primary) hypertension, other specified arthritis of the right hip, and other obesity due to excess calories.
- 7. Petitioner has a high school diploma.
 - 8. Petitioner has worked as a cleaning supervisor, from July 2021 to March 2023; a manager at a retail store, from September 2001 to May 2021; and a mail carrier, from May 2021 to November 2021. At the time of the hearing, Petitioner was not employed.
 - 9. On the date of the hearing, Petitioner was [REDACTED] years old; [REDACTED] tall and weighed approximately [REDACTED] lbs.
 - 10. Petitioner alleged disabling impairments due to various medical conditions, including hip malformation, arthritis, severe joint/nerve pain and back pain.
 - 11. 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. MDHHS 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 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 considered Substantial Gainful Activity (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 One and the evaluation continues to Step Two.

Step Two

Under Step Two, 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 Two 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 Two, 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 Two 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 including hip malformation, severe joint/nerve pain, arthritis and back pain (Exhibit A, p. 13). DDS determined that Petitioner had multiple Medically Determinable Impairments (MDIs) and categorized them as "severe" (Exhibit A, p. 15). The medical evidence shows that Petitioner has been suffering from chronic back and hip pain due to her disorders since 2022. Petitioner testified that her physical conditions prevent her from maintaining gainful employment.

In consideration of the *de minimis* standard necessary to establish a severe impairment under Step Two, 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 Two, and the analysis proceeds to Step Three.

Step Three

Step Three 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 1.00 (musculoskeletal disorders: osteoarthritis and allied disorders, and disorders of the skeletal spine); 20.00 (special/other: obesity); and 4.00 (cardiovascular system: essential hypertension) 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 Three and the analysis continues to Step Four.

Residual Functional Capacity (RFC)

If an individual's impairment does not meet or equal a listed impairment under Step Three, before proceeding to Steps Four and Five, 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 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, that she could occasionally lift and/or carry 20 pounds, could frequently lift and/or carry ten pounds, had an unlimited ability to push and/or pull in the upper extremities, had unlimited ability to push and or pull in lower extremities, could stand or walk about six hours in an eight-hour workday, and could sit about six hours in an eight-hour workday (Exhibit A, p. 16). DDS noted that Petitioner had postural limitations and could occasionally climb ramps/stairs/ladders/ropes/scaffolds, and could occasionally stoop, kneel crouch and crawl (Exhibit A, p. 16). DDS determined that Petitioner did not have manipulative, visual, communicative or environmental limitations (Exhibit A, p. 16). No mental limitations were alleged. Based on the evidence presented, DDS determined that Petitioner could engage in light work.

At the hearing, Petitioner testified that she is unable to work due to her arthritis, degenerative disc disease and hip malformation. Petitioner testified that she experiences shooting pain and numbing in her right hip and across her back. Petitioner testified that she rarely sleeps and can hardly stand or walk due to the pain. Petitioner testified that it was difficult to dress herself and shower due to the pain and that she struggled to prepare meals for herself because she was unable to stand in the kitchen for more than 15 minutes. Additionally, Petitioner testified that she walked with a walker and was unable to walk for more than about five minutes. Petitioner disputed DDS' findings and testified that that she could not sit for more than 20 minutes without experiencing pain and could not stand for more than 15 minutes at a time. Petitioner testified that she was unable to climb stairs or ramps, and that she could not crouch or bend at the knees.

Petitioner's testimony describes symptoms that are substantially more severe than DDS' findings. However, Petitioner has the burden of presenting sufficient medical evidence to support her claim and she has failed to do so here. Thus, DDS properly determined that Petitioner is able to engage in light work. Petitioner's RFC is considered at both Steps Four and Five. 20 CFR 416.920(a)(4), (f) and (g).

Step Four

Step Four requires an assessment of Petitioner's RFC and past relevant employment. 20 CFR 416.920(a)(4)(iv). Past relevant work (PRW) is work that has been performed by the petitioner (as actually performed by Petitioner or as generally performed in the national economy) within the past five 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 work history includes approximately 20 years as a Department Manager in a retail store. DDS classified this work as light work that included setting up displays in stores, stocking shelves, opening and closing the store, planning and preparing work schedules and assigning employee duties, and coordinating sales promotions and merchandise displays, among other duties (Exhibit A, p. 18).

At the hearing, Petitioner testified that she could no longer do this job due to her disabling conditions because putting the displays together was strenuous and it required her to climb a ladder to hang heavy shelves. Additionally, she testified that it required substantial walking and standing that she was no longer able to do. Petitioner's testimony was credible, but as described in more detail above, the severity of Petitioner's limitations was not supported by the medical evidence presented in this case.

Based on the evidence presented, Petitioner is able to engage in PRW based on her RFC. Thus, Petitioner is found to be **not disabled** at Step Four. Therefore, MDHHS properly determined that Petitioner was not disabled for the purposes of SDA and denied Petitioner's application for SDA.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



LJ/nr

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

Via-Electronic Mail :

DHHS

Janice Collins
Genesee County DHHS Union St District Office
125 E. Union St 7th Floor
Flint, MI 48502
MDHHS-Genesee-UnionSt-Hearings@michigan.gov

Interested Parties

BSC2
L. Karadsheh
MOAHR

Via-First Class Mail :

Petitioner

_____, MI _____