

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2009-10950

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 21, 2009

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on Tuesday, April 21, 2009. The claimant personally appeared and testified with his father, [REDACTED] and sister, [REDACTED] as witnesses.

ISSUE

Did the department properly deny the claimant's application for Medical Assistance (MA-P)?

FINDINGS OF FACT

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

(1) On July 22, 2008, the claimant applied for MA-P without filing an application for retroactive MA-P.

(2) On November 17, 2008, the Medical Review Team (MRT) denied the claimant's application for MA-P and retroactive MA-P stating that the claimant's impairments lack duration of 12 months per 20 CFR 416.909.

(3) On November 19, 2008, the department caseworker sent the claimant a notice that his application was denied.

(4) On January 14, 2009, the department received a hearing request from the claimant, contesting the department's negative action.

(5) On February 6, 2009, the State Hearing Review Team (SHRT) considered the submitted objective medical evidence in making its determination of MA-P and retroactive MA-P eligibility for the claimant. The SHRT report reads in part:

The claimant is alleging disability due to a head injury and subdural hematoma. He is 32 years old and has a 12<sup>th</sup> grade education with a history of unknown work. The claimant did not meet applicable Social Security listings found in CFR 404, Subpart P. The claimant's impairments lack duration per 20 CFR 416.909. The claimant had a severe head injury as the result of an assault with a bat to the head. He was improving and his impairment was not expected to prevent all types of work for 12 months in a row.

(6) The claimant is a 33 year-old man whose date of birth is [REDACTED]. The claimant is 6' tall and weighs 190 pounds. The claimant has his GED and completed the 10<sup>th</sup> grade of high school. The claimant can read and write and do basic math. The claimant was last employed as a carpenter in June 2008 at the medium level. The claimant has also been employed as a gas station attendant and forklift operator.

(7) The claimant's alleged impairments are head injury and subdural hematoma in [REDACTED].

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled. We will not consider your age, education, and work experience. 20 CFR 416.920(c).

[In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of a medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

...In deciding whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. 20 CFR 416.927(b).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

...If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence. 20 CFR 416.927(c)(1).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment(s).... 20 CFR 416.945(a).

...In determining whether you are disabled, we will consider all of your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with objective medical evidence, and other evidence.... 20 CFR 416.929(a).

...In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you... We will then determine the extent to which your alleged functional limitations or restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work.... 20 CFR 416.929(a).

If you have more than one impairment, we will consider all of your impairments of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based upon all of the relevant evidence. This assessment of your capacity for work is not a decision on whether you are disabled but is used as a basis for determining the particular types of work you may be able to do despite your impairment. 20 CFR 416.945.

...When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions

(including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work. 20 CFR 416.945(b).

Federal regulations require that the department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months ... 20 CFR 416.905

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). At Step 1, the claimant is not engaged in substantial gainful activity and has not worked since June 2008. Therefore, the claimant is not disqualified from receiving disability at Step 1.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities.



Basic work activities means, the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6<sup>th</sup> Cir, 1988). As a result, the department may only screen out claims at this level which are “totally groundless” solely from a medical standpoint. The *Higgs* court used the severity requirement as a “*de minimus* hurdle” in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

The objective medical evidence on the record further substantiates the following:

On [REDACTED], the claimant’s treating rehabilitative team submitted an admission conference summary and initial rehabilitative care plan for the claimant’s treatment at [REDACTED]. The claimant was assaulted with a baseball bat on [REDACTED] where he is status post multiple traumas to the head. The claimant continues to receive physical therapy, occupational therapy, SLP, social work, and psychological services. The claimant would like to improve his memory and the mobility of his left leg. Physical therapy reported that the claimant has improved

strength in his left tibialis anterior sufficient to clear the toes during ambulation. The claimant no longer requires a solid ankle AFO. The claimant could benefit from a hinged ankle AFO to provide lateral stability. The claimant fully participates in physical therapy and has shown some improvement. Occupational therapy reported that the claimant attends three hours a week where the claimant showed impulsivity in the parking lot while in the community and had difficulty scanning and limited problem solving. The claimant is working too hard in therapy where he has been observed moving the weight amount from 100 pounds to a much higher weight, doubling the weight being lifted, which is a concern as he may bend the plate that's been put in his elbow. In speech therapy and occupational therapy, the claimant reported working on a pre-vocational assessment/check list to evaluate the claimant's safety and awareness of the skills needed to return to his prior vocation of finishing carpentry. The claimant's speech therapist reported that the claimant's auditory comprehension for complex pieces of information is currently at 100% with minimal to moderate assistance. The claimant has shown little impulsivity and missing some details with complex issues. Executive skills of planning and reassessing progress have been difficult for the claimant. The claimant does learn over trials and from mistakes 50-75% of the time and is showing some progress. The claimant is doing amazingly well considering what he's been through where he was interactive in the men's group. The claimant stated "It's nice being with other people that have a brain injury". The claimant does exhibit anxiety during therapy where he wants things yesterday and needs frequent cues to slow down and take things in progression. The claimant is beginning to work on coping mechanisms. The claimant's motivation is fabulous and he needs reminders to stay in the moment. (Department Exhibit 13-16)

On [REDACTED], the claimant was seen by an independent medical examiner neurologist and psychiatrist. The claimant was accompanied to his appointment by his mother. The claimant was assaulted in [REDACTED] with a baseball bat where he suffered injuries to his brain resulting in a subdural and intraparenchymal hemorrhage, multiple fractures to the base of the skull and to his left temple, left frontal, and bilateral parietal areas. The claimant was in a coma for two weeks in ICU where he was subsequently transferred to the floor and to rehab with discharge in [REDACTED]. The claimant had a tracheostomy tube, which was taken off. The claimant still has a G-tube, but he is eating by mouth. The claimant was alert and oriented x3 with normal receptive and expressive language. The claimant had a normal affect, judgment, and recall. The claimant's pupils were equal, round, and reactive to light. The claimant had no atrophy or fasciculations. The claimant's motor exam showed no pronator drift or subtle weakness. The claimant's strength was 4/5 in the left lower extremity and 4+/5 in the right lower extremity in the proximal muscles and 2/5 in the right dorsiflexors. Deep tendon reflexes were 2+ in the upper extremity and 3-4+ at the knee with upgoing toe bilaterally. The neurological exam at this time showed the claimant to be alert with normal receptive and expressive language with having difficulty with attention and concentration and some motor difficulties secondary to mild paraparesis of the lower extremity status post severe traumatic brain injury. (Department Exhibit 4-5)

On [REDACTED], the claimant was admitted to [REDACTED] with a discharge date of [REDACTED]. The claimant had a trauma outreach status post assault with bat to the head. The claimant's principal diagnosis was left subdural hematoma, diffuse intraparenchymal hemorrhage, basilar skull fracture, tripod fracture, frontal fracture, and left olecranon fracture. The claimant was taken to the operating room on [REDACTED] for a

craniotomy being performed with reconstruction, open reduction and internal fixation. On [REDACTED], the claimant had a tracheostomy and PEG tube placed. On [REDACTED], the claimant had additional surgery to decompress his multiple skull fractures. On [REDACTED], the claimant had an ORIF of his left olecranon fracture. (Department Exhibit 28-30)

At Step 2, the objective medical evidence in the record indicates that the claimant has established that he has a severe impairment. The claimant was assaulted with a bat in [REDACTED] where he was in a coma for two weeks and required extensive treatment and therapy. The claimant has improved substantially, but still has some residual effects in his concentration and attention with some motor difficulties secondary to mild paraparesis as stated in the independent medical consultative exam on [REDACTED]. The claimant was participating with [REDACTED] [REDACTED] to increase his independent living where he was taking full advantage of the services as documented on the [REDACTED] care plan. Therefore, the claimant is not disqualified from receiving disability at Step 2. However, this Administrative Law Judge will proceed through the sequential evaluation process to determine disability because Step 2 is a *de minimus* standard.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the claimant's medical record will not support a finding that claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). This Administrative Law Judge finds that the claimant's impairments

do not rise to the level necessary to be listed as disabling by law. Therefore, the claimant is disqualified from receiving disability at Step 3.

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical and psychological findings, that the claimant does not have a driver's license and does not drive because he lost his license for driving under age and driving without a license. The claimant does cook three to four times a week with no problem. The claimant does not grocery shop because he has no money. The claimant does clean his own home by cleaning the bathroom. The claimant doesn't do any outside work. His hobby is taking care of turtles. The claimant felt that his condition is the same where he can't walk, forgets things, and his memory is different. The claimant stated for his mental impairment he is not taking medication or in therapy.

The claimant wakes up between 8:00 to 9:00 a.m. He has breakfast. He watches TV. He has lunch. He checks on his turtles. He has dinner. He stays at the house. The claimant goes to bed between 11:30 p.m. and 12:00 a.m.

The claimant was not sure how far he could walk. The longest he felt he could stand was 60 minutes. The claimant did not have a problem sitting. The claimant did not know what the heaviest weight was that he could carry.

The claimant smokes ten cigarettes a day. He stopped drinking in June 2008 where before he would have 1-12 beers every one to two weeks. The claimant stopped doing cocaine in May 2008. The claimant felt that he could answer telephones, but he couldn't do carpentry because he can't walk and use power tools.

This Administrative Law Judge finds that the claimant has established that he cannot perform any of his prior work. The claimant was previously employed as a carpenter, gas station attendant, and forklift operator. The claimant is still having issues with his memory and concentration and still having mobility issues with his walking, which would make performing the aforementioned positions difficult in his current condition. However, the claimant should be able to perform simple, unskilled, light work that does not require excessive standing or stooping. Therefore, the claimant is not disqualified from receiving disability at Step 4. However, the Administrative Law Judge will still proceed through the sequential evaluation process to determine whether or not the claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

In the fifth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing other work.

20 CFR 416.920(f). This determination is based upon the claimant's:

- (1) residual functional capacity defined simply as "what can you still do despite you limitations?" 20 CFR 416.945;
- (2) age, education, and work experience, 20 CFR 416.963-.965; and
- (3) the kinds of work which exist in significant numbers in the national economy which the claimant could perform despite his/her limitations. 20 CFR 416.966.

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor.... 20 CFR 416.967.

**Sedentary work.** 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. Although a sedentary job is defined as one which involves sitting, a certain amount of walking

and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

**Light work.** 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 this 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).

...To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. 20 CFR 416.967(b).

**Unskilled work.** Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength.... 20 CFR 416.968(a).

The claimant has submitted insufficient evidence that he lacks the residual functional capacity to perform some other less strenuous tasks than in his previous employment or that he is physically unable to do any tasks demanded of him. The claimant's testimony as to his limitation indicates his limitations are exertional and non-exertional.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

In the instant case, the claimant has suffered a head injury and subdural hematoma in [REDACTED]. The claimant testified at the hearing on April 29, 2009 that he was not taking any medication or in therapy. The claimant did receive services from [REDACTED], but only the initial rehabilitative care plan was submitted and nothing subsequent. The claimant was performing well and on track for achieving his full-time goals. As listed in his documentation, the claimant still has issues with attention and concentration with limited mobility of his lower limbs. As a result, there is sufficient medical evidence of a mental impairment that is so severe that it would prevent the claimant from performing skilled, detailed work, but the claimant should be able to perform simple, unskilled work.

At Step 5, the claimant should be able to meet the physical requirements of light work, based upon the claimant's physical abilities. Under the Medical-Vocational guidelines, a younger individual, with a high school education, with a skilled and unskilled work history, who is limited to light work, is not considered disabled. 20 CFR 404, Subpart P, Appendix 2, Rule 202.20s. The Medical-Vocational guidelines are not strictly applied with non-exertional impairments such as a head injury. 20 CFR 404, Subpart P, Appendix 2, Section 200.00. Using the Medical-Vocational guidelines as a framework for making this decision and after giving full consideration to the claimant's physical and mental impairments, the Administrative Law Judge finds that the claimant can still perform a wide range of simple, unskilled, light activities and that the claimant does not meet the definition of disabled under the MA program.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established that it was acting in compliance with department policy when it denied the claimant's application for MA-P and retroactive



MA-P. The claimant should be able to perform any level of simple, unskilled, light work. The department has established its case by a preponderance of the evidence.

Accordingly, the department's decision is **AFFIRMED**.

/s/ \_\_\_\_\_  
Carmen G. Fahie  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 14, 2009

Date Mailed: August 14, 2009

**NOTICE:** Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CGF/vmc

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