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: 200912812
Issue No: 2009
Case No:
Load No: [redacted]
Hearing Date:
May 7, 2009
Otsego County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

## 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 hearing was held on May 7, 2009.

## ISSUE

Was the denial of claimant's application for MA-P and SDA for lack of disability correct?

## FINDINGS OF FACT

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

(1) Claimant applied for MA-P and SDA on November 17, 2008.

(2) Claimant is 48 years old.

(3) Claimant has a 9th grade education level and is illiterate.

(4) Claimant is not currently working.

(5) Claimant has a prior work history consisting of carpentry and building.

(6) Claimant performed these jobs at the heavy exertional level.

(7) Claimant has been diagnosed with significant levoconvex scoliosis of the spine, narrowing and desiccation of the disc at L4-5, degenerative disc disease, severe degenerative joint disease of the subtalar joint of the left ankle, and maligned hindfoot of the calcaneal valgus.

(8) Claimant also has severe, recurrent depression and was hospitalized for a suicide attempt in December, 2008.

(9) A full, independent, RFC assessment found that claimant had significant limitations in lifting, standing, stooping, crawling and general movement.

(10) This assessment also gave claimant a RFC of "occasional" "light work".

(11) On December 26, 2008, the Medical Review Team denied MA-P and SDA, stating that claimant was capable of performing other work, but did not cite a vocational rule.

(12) On December 30, 2008, claimant filed for hearing.

(13) On March 3, 2009, SHRT issued a finding that claimant was capable of light work, and found him not disabled according to vocational rule 202.18.

(14) On May 7, 2009, a hearing was held before the Administrative Law Judge. Extensions were granted for the submission of new evidence.

## 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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Federal regulations require that the Department use the same operative definition of the term "disabled" as is used by the Social Security Administration for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

Disability is defined as 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

This is determined by a five step sequential evaluation process where current work activity, the severity and duration of the impairment(s), statutory listings of medical impairments, residual functional capacity, and vocational factors (i.e., age, education, and work experience) are considered. These factors are always considered in order according to the five step sequential evaluation, and when a determination can be made at any step as to the claimant's disability status, no analysis of subsequent steps are necessary. 20 CFR 416.920

The first step that must be considered is whether the claimant is still partaking in Substantial Gainful Activity (SGA). 20 CFR 416.920(b). To be considered disabled, a person

must be unable to engage in SGA. A person who is earning more than a certain monthly amount (net of impairment-related work expenses) is ordinarily considered to be engaging in SGA. The amount of monthly earnings considered as SGA depends on the nature of a person's disability; the Social Security Act specifies a higher SGA amount for statutorily blind individuals and a lower SGA amount for non-blind individuals. Both SGA amounts increase with increases in the national average wage index. The monthly SGA amount for statutorily blind individuals for 2009 is $1,640. For non-blind individuals, the monthly SGA amount for 2009 is $980.

In the current case, claimant has testified that he is not working, and the Department has presented no evidence or allegations that claimant is engaging in SGA. Therefore, the Administrative Law Judge finds that the claimant is not engaging in SGA, and thus passes the first step of the sequential evaluation process.

The second step that must be considered is whether or not the claimant has a severe impairment. A severe impairment is an impairment expected to last 12 months or more (or result in death), which significantly limits an individual's physical or mental ability to perform basic work activities. The term "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 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are "totally groundless" solely from a medical standpoint. This is a *de minimus* standard in the disability determination that the court may use only to disregard trifling matters. As a rule, any impairment that can reasonably be expected to significantly impair basic activities is enough to meet this standard.

In the current case, claimant has presented medical evidence of significant levoconvex scoliosis of the spine, narrowing and desiccation of the disc at L4-5, degenerative disc disease, severe degenerative joint disease of the subtalar joint of the left ankle, and maligned hindfoot of the calcaneal valgus, according to the great weight of the evidence by both the Department and claimant's treating sources. These issues have lasted far more than the 12 month durational requirement, and show no signs of abating in the future. The Administrative Law Judge finds that this is a significant impairment to claimant's performance of basic physical work activities, including lifting, standing, and walking, and is therefore enough to pass step two of the sequential evaluation process.

In the third step of the sequential evaluation, we must determine if the claimant's impairment is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This is, generally speaking, an objective standard; either claimant's impairment is listed in this appendix, or it is not. However, at this step, a ruling against the claimant does not direct a finding of "not disabled"; if the claimant's impairment does not meet or equal a listing found in Appendix 1, the sequential evaluation process must continue on to step four.

The Administrative Law Judge finds that the claimant's medical records do not contain medical evidence of an impairment that meets or equals a listed impairment. Therefore, the claimant cannot be found to be disabled at this step, based upon medical evidence alone. 20 CFR 416.920(d). In making this determination, the undersigned consulted several listings, including 1.04A and C, as well as 12.04.

With regard to 1.04A and C, the undersigned notes that these listings requires a finding of nerve root compression or lumbar spinal stenosis with an inability to ambulate effectively or loss of motor control. The undersigned will note that while claimant does appear to have some slight ambulation problems (Functional Capacity Assessment from Vance Rehabilitation), nothing in the records indicates that claimant is unable to "ambulate effectively". No mention is made at any point of lumbar spinal stenosis.

With regard to listing 12.04, the undersigned notes that this listing requires a finding of a "depressive syndrome", associated with at least four different factors associated with that syndrome. The great weight of the medical evidence shows that claimant has met that prong since his hospitalization in December, 2008.

However, this listing also requires a finding of marked restrictions in activities of daily living, social functioning, the maintaining of concentration, persistence and pace, or repeated episodes of decompensation. Given claimant's own testimony, as well as the medical evidence of record, the undersigned cannot find that claimant is markedly restricted in any of the above mentioned areas. While claimant does possess some difficulties, none of these difficulties rise to levels stated in the listing of a "marked" difficulty. Therefore, claimant is unable to meet the second prong of listing 12.04, and thus cannot be found to be disabled at this step.

We must thus proceed to the next steps, and evaluate claimant's vocational factors.

Evaluation under the disability regulations requires careful consideration of whether the claimant can do past relevant work (PRW), which is our step four, and if not, whether they can reasonably be expected to make vocational adjustments to other work, which is our step five. When the individual's residual functional capacity (RFC) precludes meeting the physical and mental demands of PRW, consideration of all facts of the case will lead to a finding that

1) the individual has the functional and vocational capacity for other work, considering the individual's age, education and work experience, and that jobs which the individual could perform exist in significant numbers in the national economy, or

2) The extent of work that the claimant can do, functionally and vocationally, is too narrow to sustain a finding of the ability to engage in SGA. SSR 86-8.

Given that the severity of the impairment must be the basis for a finding of disability, steps four and five of the sequential evaluation process must begin with an assessment of the claimant's functional limitations and capacities. After the RFC assessment is made, we must determine whether the individual retains the capacity to perform PRW. Following that, an evaluation of the claimant's age, education and work experience and training will be made to determine if the claimant retains the capacity to participate in SGA.

RFC is an assessment of an individual's ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis—meaning 8 hours a day, 5 days a week, or an equivalent work schedule. RFC assessments may only consider functional limitations and restrictions that result from a claimant's medically determinable impairment, including the impact from related symptoms. It is important to note that RFC is not a measure of the least an individual can do despite their limitations, but rather, the most. Furthermore, medical

impairments and symptoms, including pain, are not intrinsically exertional or nonexertional; it is the functional limitations *caused* by medical impairments and symptoms are placed into the exertional and nonexertional categories. SSR 96-8p, 20 CFR 416.945 (a).

However, our RFC evaluations must necessarily differ between steps four and five. At step four of the evaluation process, RFC must not be expressed initially in terms of the step five exertional categories of “sedentary”, “light”, “medium”, “heavy”, and “very heavy” work because the first consideration in step four is whether the claimant can do PRW as they actually performed it. Such exertional categories are useful to determine whether a claimant can perform at their PRW as is normally performed in the national economy, but this is generally not useful for a step four determination because particular occupations may not require all of the exertional and nonexertional demands necessary to do a full range of work at a given exertional level. SSR 96-8p.

Therefore, at this step, it is important to assess the claimant’s RFC on a function-by-function basis, based upon all the relevant evidence of an individual’s ability to do work related activities. Only at step 5 can we consider the claimant’s exertional category.

An RFC assessment must be based on all relevant evidence in the case record, such as medical history, laboratory findings, the effects of treatments (including limitations or restrictions imposed by the mechanics of treatment), reports of daily activities, lay evidence, recorded observations, medical treating source statements, effects of symptoms (including pain) that are reasonably attributed to the impairment, and evidence from attempts to work. SSR 96-8p.

RFC assessments must also address both the remaining exertional and nonexertional capacities of the claimant. Exertional capacity addresses an individual’s limitations and

restrictions of physical strength, and the claimant's ability to perform everyday activities such as sitting, standing, walking, lifting, carrying, pushing and pulling; each activity must be considered separately. Nonexertional capacity considers all work-related limitations and restrictions that do not depend on an individual's physical strength, such as the ability to stoop, climb, reach, handle, communicate and understand and remember instructions.

Symptoms, such as pain, are neither exertional or nonexertional limitations; however such symptoms can often affect the capacity to perform activities as contemplated above and thus, can cause exertional or nonexertional limitations. SSR 96-8.

In the current case, it is undisputed that claimant have difficulties with basic lifting. Functional Capacity Assessment from Vance Rehabilitation. Furthermore, claimant has degenerative joint disease in his ankles, which restrict his ability to stand for long periods of time. Operative Report of [redacted].

Furthermore, claimant has some gait problems because of his scoliosis. Functional Capacity Assessment from Vance Rehabilitation. Claimant is right handed. Claimant is able to do most activities of daily living including cooking, shopping, and some housekeeping. Claimant has had no trouble with personal grooming. Claimant testified that he has some problems with stooping and bending. Medical reports and exams show that claimant is hard of hearing and wears a hearing aid. Finally, most reports show that claimant is illiterate and this report was not contested by the Department.

From these reports, the Administrative Law Judge concludes that claimant has a disabling impairment when considering the functions of carrying and lifting. Claimant has limitations in walking and standing. Claimant should avoid climbing. Claimant has some postural limitations

(e.g. stooping), but no visual limitations. Claimant has some communicative (hearing, speaking) limitations. Claimant has limitations in reading and writing.

Claimant has also made allegations of disabling pain. When considering pain, there must be an assessment of whether the claimant's subjective complaints are supported by an objective medical condition which can be expected to cause such complaints. 20 CFR 416.929, *Rogers v. Commissioner,* 486 F. 3d 234 (6th Cir. 2007). An assessment must be done to consider whether objective medical evidence confirms the severity of the alleged pain or whether the objectively established medical condition is of such a severity that it can reasonably be expected to produce the alleged disabling pain. *Duncan v Secretary of HHS,* 801 F2d 847, 853 (1986); *Felisky v Bowen,* 28 F3d 213 (6th Cir, 1994). Furthermore, the adjudicator must evaluate the intensity, persistence and limiting effects of the symptoms on the claimant's ability to do basic work activities, i.e. daily activities, location duration, frequency, intensity of symptoms, aggravating and precipitating factors, type, dosage effectiveness, and side effects of any medications, and any other treatment undertaken to relieve symptoms or other measures taken to relieve symptoms such as lying down. *Rogers.*

In this case, medical evidence from claimant's general practitioner, surgeon and physical therapy doctor confirms existence of a condition which can be expected to cause complaints of pain. The specific nature of claimant's injury indicates nerve damage, a condition which often results in extreme, sometimes disabling pain. Claimant's treating sources confirm claimant's credibility regarding the complaints of pain. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers; Bowen v Commissioner,* 473 F. 3d 742 (6th Cir. 2007). The undersigned sees no reason to discount claimant's treating source opinions.

Therefore, after careful review of claimant's medical record and the Administrative Law Judge's interactions with claimant at the hearing, the undersigned finds that claimant's medical condition is of such a severity that it can reasonably be expected to produce claimant's complaints of pain.

With regard to the complaints of pain, claimant expressed familiarity with the pain scale. Claimant reported his pain to be around a 6 on the scale with the medications, depending on the day and the circumstances. Claimant described the pain further as a constant, even with medications.

However, there was little evidence presented that indicates that claimant's medications have more than a nominal impact on claimant's ability to perform basic work functions. The evidence indicates that claimant takes Darvocet six times per day; and Gabopentin three times per day. While these medications have common side effects of drowsiness, somnolence, and sedative-hypnotic states, and these medications are known to severely limit an individual's ability to maintain concentration, persistence, pace, and affect, the medical records do not contain significant indications of claimant having troubles with these medications. While claimant did state that he is occasionally drowsy from these medications, there is no indication that claimant is experiencing significant limitations as a result of these medications. Claimant did not indicate restrictions from driving or any other limitations as a result of his medications. Therefore, while the undersigned feels that claimant's symptoms of pain are both real and supported by the record, he is unable to find in good faith that these symptoms have a significant effect on claimant's functional limitations.

Claimant's PRW includes working as a carpenter and builder. These jobs, as typically performed and as described by the claimant, involve the use of both arms and fine manipulation

with both hands. Construction work requires lifting of heavy objects, such as building materials and tools. This job also requires fine manipulation and the ability to stand or walk for long periods of time while carrying heavy loads. Finally, this job requires much bending and stooping. Therefore, given the functional requirements as stated by claimant (which is consistent with how these jobs are typically performed) this job, and claimant's functional limitations as described above, the Administrative Law Judge concludes that claimant does not retain the capacity to perform his past relevant work.

In the fifth step of the sequential consideration of a disability claim, the Administrative Law Judge 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.

See *Felton v DSS* 161 Mich. App 690, 696 (1987).

At step five, RFC must be expressed in terms of, or related to, the exertional categories when the adjudicator determines whether there is other work that the individual can do. However, in order for an individual to do a full range of work at a given exertional level, such as sedentary, the individual must be able to perform substantially **all of the exertional and nonexertional functions** required at that level. SSR 96-8p. This means that they can perform that job in a work setting on a regular and continuing basis—meaning 8 hours a day, 5 days a

week. The individual has the burden of proving that they are disabled and of raising any issue bearing on that determination or decision. SSR 86-8.

If the remaining physical and mental capacities are consistent with meeting the physical and mental demands of a significant number of jobs in the national economy, and the claimant has the vocational capabilities (considering age, education and past work experience) to make an adjustment to work different from that performed in the past, it shall be determined that the claimant is not disabled. However, if the claimant's physical, mental and vocational capacities do not allow the individual to adjust to work different from that performed in the past, it shall be determined at this step that the claimant is disabled. SSR 86-8.

For the purpose of determining the exertional requirements of work in the national economy, jobs are classified as "sedentary", "light", "medium", "heavy", and "very heavy". These terms have the same meaning as are used in the *Dictionary of Occupational Titles*. In order to evaluate the claimant's skills and to help determine the existence in the national economy of work the claimant is able to do, occupations are classified as unskilled, semiskilled and skilled. SSR 86-8.

These aspects are tied together through use of the rules established in Appendix 2 to Subpart P of the regulations (*20 CR 404, Appendix 2 to Subpart P, Section 200-204 et. seq*) to make a determination as to disability. They reflect the analysis of the various vocational factors (i.e., age, education, and work experience) in combination with the individual's residual functional capacity (used to determine his or her maximum sustained work capability for sedentary, light, medium, heavy, or very heavy work) in evaluating the individual's ability to engage in substantial gainful activity in other than his or her vocationally relevant past work. Where the findings of fact made with respect to a particular individual's vocational factors and

residual functional capacity coincide with all of the criteria of a particular rule, the rule directs a conclusion as to whether the individual is or is not disabled. 20 CFR 404, Subpart P, Appendix 2, Rule 200.00(a).

In the application of the rules, the individual's residual functional capacity, age, education, and work experience must first be determined. The correct disability decision (i.e., on the issue of ability to engage in substantial gainful activity) is found by then locating the individual's specific vocational profile. Since the rules are predicated on an individual's having an impairment which manifests itself by limitations in meeting the strength requirements of jobs, they may not be fully applicable where the nature of an individual's impairment does not result in such limitations, e.g., certain mental, sensory, or skin impairments. 20 CFR 404, Subpart P, Appendix 2, Rule 200.00(c)-200.00(d).

In the evaluation of disability where the individual has solely a nonexertional type of impairment, determination as to whether disability exists shall be based on the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations. The rules do not direct factual conclusions of disabled or not disabled for individuals with solely nonexertional types of impairments. 20 CFR 404, Subpart P, Appendix 2, Rule 200.00(e)(1).

However, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone; if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience provide a framework for consideration of how much the individual's work capability is further diminished in terms of any types of jobs that would be

contraindicated by the nonexertional limitations. Furthermore, when there are combinations of nonexertional and exertional limitations which cannot be wholly determined under the rules, full consideration must be given to all of the relevant facts in the case in accordance with the definitions and discussions of each factor in the appropriate sections of the regulations, which will provide insight into the adjudicative weight to be accorded each factor.

Claimant is forty-eight years old, with a 9th grade education and prior work experience performed at the medium and heavy exertional levels. Claimant's PRW in construction would be classified as unskilled. Claimant's exertional impairments likely render claimant able to perform work at the sedentary level; claimant has no limitations in sitting, can walk short distances, and while claimant should probably be avoiding lifting heavy objects, he has been cleared to lift most weights occasionally. Claimant is to avoid standing for long periods of time. Claimant's functional limitations, as stated above, preclude claimant from participating in his past jobs.

Furthermore, this case is interesting in that a full residual functional capacity assessment was performed. This capacity assessment put claimant through a variety of scientific tests, including lifting and postural tests, walking and standing tests, and the like. The outcome of this test showed that claimant could participate occasionally in light work.

The term "occasionally" is a term of art in disability law, meaning less than 2 hours in an 8 hour day. This report indicates as much. RFC is an assessment of an individual's ability to do sustained work-related physical and mental activities in a work setting on a regular and continuing basis—meaning 8 hours a day, 5 days a week, or an equivalent work schedule. SSR 96-8p. Given the rigorous merit of this testing battery, the undersigned sees no reason to discount it.

Therefore, as an RFC finding must be on a sustained basis, and as the testing battery found claimant capable of occasional light work, and given the limitations as stated by the weight of the medical evidence above, the undersigned finds claimant able to perform at the sedentary work level.

Using a combination of claimant's age, education level (which does not provide for direct entry into skilled work), previous work experience of unskilled work with non-transferable skills, and claimant's illiteracy, a finding of disabled is directed. 20 CFR 404, Subpart P, Appendix 2, Rule 201.17.

As stated above, where an individual has an impairment or combination of impairments resulting in both strength limitations and nonexertional limitations, the rules are considered in determining first whether a finding of disabled may be possible based on the strength limitations alone. As we are able to make a determination based solely on exertional limitations, an examination of claimant's nonexertional limitations, such as depression, though quite relevant to claimant's overall health, is not required and will not be made here.

However, if the claimant has been determined to be disabled and there is medical evidence of drug addiction or alcoholism, a determination must be made as to whether the drug addiction or alcoholism is a contributing factor material to the determination of disability, unless eligibility for benefits has been found because of age or blindness. 20 CFR 416.935 (a).

The key factor in determining whether drug addiction or alcoholism is a contributing factor material to the determination of disability is whether a finding of disability would still be directed if claimant stopped using drugs or alcohol. 20 CFR 416.935 (b) (1).

In making this determination, an evaluation of which of the claimant's current physical and mental limitations, upon which the disability determination was based, would remain if

claimant stopped using drugs or alcohol; a determination is then made as to whether any or all of claimant's remaining limitations would be disabling. 20 CFR 416.935 (b) (2).

If it is determined that claimant's remaining limitations would not be disabling, it will be found that claimant's drug addiction or alcoholism is a contributing factor material to the determination of disability.

If it is determined that claimant's remaining limitations are disabling, claimant shall be found to be disabled independent of claimant's drug addiction or alcoholism and the undersigned will find that claimant's drug addiction or alcoholism is not a contributing factor material to the determination of disability.

The undersigned determined disability based upon claimant's scoliosis, degenerative disc disease, joint degeneration, and the lifting and physical restrictions that arose from that condition. These findings were augmented by claimant's documented illiteracy. A finding of disability was directed because of these strength limitations by 20 CFR 404, Subpart P, Appendix 2, Rule 201.17. There is no evidence that claimant's condition was caused by claimant's drug and alcohol abuse problem, and there is no evidence that claimant's condition would miraculously improve if claimant stopped his drug and alcohol abuse.

As these limitations would remain, even if claimant stopped his abuse, it therefore follows that the Administrative Law Judge's determination of disability would remain unchanged even if claimant no longer abused alcohol. Therefore, claimant's abuse issue is not a contributing factor material to the determination of disability.

With regard to the SDA program, a person is considered disabled for the purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Other specific financial and non-financial eligibility criteria are

found in PEM 261. As claimant meets the federal standards for SSI disability, as addressed above, and alleges an onset date of 2007, the undersigned concludes that the claimant is disabled for the purposes of the SDA program as well.

## DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant is disabled for the purposes of the MA program as of November 7, 2008. Therefore, the decisions to deny claimant's application for MA-P and SDA were incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, REVERSED.

The Department is ORDERED to process claimant's MA-P and SDA application and award required benefits retroactive to the date of application, provided claimant meets all non-medical standards as well. The Department is further ORDERED to initiate a review of claimant's disability case in May, 2011.

Robert Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 05/06/10

Date Mailed: 05/13/10

**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.

RJC/dj

cc: [redacted]