

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: 2010-13875  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
February 24, 2010  
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 February 24, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly deny claimant's application for Medical Assistance (MA-P) and State Disability Assistance (SDA)?

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 received a fully favorable SSI decision that approved disability with an onset date of June 2006, and noted that the disability ended at the end of October 2007.
- (2) According to the evidence contained in the file, the medical case was left open and a review was conducted in July 2009, instead of requiring claimant to file an additional application.

(3) On October 21, 2009, the Medical Review Team denied claimant's application stating that claimant could perform other work.

(4) On November 25, 2009, the department caseworker sent claimant notice that his review application was denied.

(5) On December 2, 2009, claimant filed a request for a hearing to contest the department's negative action.

(6) On January 4, 2010, the State Hearing Review Team again denied claimant's application stating in its analysis and recommendation:

The evidence for this case supports the findings of the Medical Review Team that the claimant retains the ability to perform light exertional tasks. Based upon the discovery of additional evidence, it is reasonable to further conclude that the claimant would be limited to performing simple, non-repetitive tasks. The claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence of record indicates that the claimant retains the capacity to perform a wide range of light, simple repetitive work. Therefore, based on the claimant's vocational profile of 52 years old, high school education and history of medium semi-skilled work, MA-P is denied using Vocational Rule 202.14 and 202.15 as a guide. Retroactive MA-P was considered in this case and is also denied. State Disability Assistance is denied per PEM 261 because the nature and severity of the claimant's impairments would not preclude work activity at the above-stated level for 90 days. Listings 1.02, 11.14 and 12.04 were considered in this determination.

(7) Claimant is a 52-year-old man whose birth date is [REDACTED] Claimant is 5' 9" tall and weighs 265 pounds. Claimant is a high school graduate and is able to read and write and does have basic math skills.

(8) Claimant last worked in August 2004 as a tool maker. Claimant worked in tool and die for 27 years.

(9) Claimant alleges as disabling impairments: leg pain, fatigue, and nerve damage, as well as depression, hypertension, arthritis, herniated discs, carcinoid syndrome and fibromyalgia.

### CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, 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

A set order is used to determine disability. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

If an individual is working and the work is substantial gainful activity, the individual is not disabled regardless of the medical condition, education and work experience. 20 CFR 416.920(c).

If the impairment or combination of impairments do not significantly limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. Age, education and work experience will not be considered. 20 CFR 416.920.

Statements about pain or other symptoms do not alone establish disability. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...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).

In determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are 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).

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

Medical evidence 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 the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

At Step 1, claimant is not engaged in substantial gainful activity and has not worked since 2004. Claimant is not disqualified from receiving disability at Step 1. This Administrative Law Judge will make a determination in this case based upon a medical improvement, since claimant was determined to be medically disabled at one point and the department did not cancel his case appropriately.

In general, claimant has the responsibility to prove that he/she is disabled. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical

or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has an impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Once an individual has been determined to be "disabled" for purposes of disability benefits, continued entitlement to benefits must be periodically reviewed. In evaluating whether an individual's disability continues, 20 CFR 416.994 requires the trier of fact to follow a sequential evaluation process by which current work activities, severity of impairment(s), and the possibility of medical improvement and its relationship to the individual's ability to work are assessed. Review may cease and benefits may be continued at any point if there is substantial evidence to find that the individual is unable to engage in substantial gainful activity. 20 CFR 416.994(b)(5).

First, the trier of fact must determine if the individual is working and if work is substantial gainful activity. 20 CFR 416.994(b)(5)(i). In the instant case, claimant is not working and has not worked since 2004.

Secondly, if the individual has an impairment or combination of impairments which meet or equal the severity of an impairment listed in Appendix 1 to Subpart P of Part 404 of Chapter 20, disability is found to continue. 20 CFR 416.994(b)(5)(ii).

The objective medical evidence in the record indicates that a mental residual functional capacity assessment, dated December 16, 2008, indicates that claimant was only moderately

limited in a few areas and not significantly limited in any other area. Claimant was only moderately limited in the area of the ability to understand and remember detailed instructions, the ability to maintain attention and concentration for extended periods, and the ability to respond appropriately to changes in the work setting. (pages 45-48)

The Social Security Administration indicated that claimant has a severity of illness but did not meet or equal any listing and that he retained the mental residual functional capacity to do low-stress, simple unskilled work on a sustained basis with adequate pace and endurance.

An October 15, 2008 Medical Examination Report, indicates that claimant was a well-built, well-nourished white male in no acute distress. For his vital signs, he was 5' 9" tall and weighed 266 pounds. His blood pressure was 165/106 on the right and 186/99 on the left. His pulse was 93. Respirations were 20. Vision without eyeglasses was 20/100 on the right and 20/100 on the left. Vision with glasses was 20/20 bilaterally. HEENT: The patient wears glasses. Pupils were normal in size, reactive to light. There is no pallor or icterus. Extraocular movements were normal. No papilledema. External ears, auditory canals and tympanic membranes are healthy. No nasal congestion, nasal polyps or paranasal sinus tenderness. In the neck, there was no jugular venous distention, no carotid bruits, no cervical lymphadenopathy or thyromegaly. For heart: 1<sup>st</sup> and 2<sup>nd</sup> sounds heard normally. No 3<sup>rd</sup> heart sound, 4<sup>th</sup> heart sound or murmur. In the lungs, there was bilateral vesicular breath sounds with no added sounds. The abdomen was soft and non-tender and non-distended with normal bowel sounds. In the musculoskeletal area, the patient was able to touch his toes with some pain and discomfort. His gait was slow but normal. The patient has a bruise on his left elbow and left arm because he fell down yesterday at home and had tailbone pain. His nervous system: cranial nerves III-XII are grossly normal. Deep tendon reflexes are symmetrical. Plantar flexor: Power is 5/5 overall. Light



touch is preserved overall. The medical source's impression was that claimant has moderate to severe medical impairment or functional impairment because of his medical conditions and would be unable to perform his activities of tool maker because it requires climbing, and using scaffolding and stairs. (pages 83,84)

A September 25, 2009 medical examination report, indicates that the claimant is morbidly obese. He is in no acute distress. The patient was alert, awake and oriented to person, place and time. His vital signs were height 5' 9" tall, weight 268 pounds. Pulse was 80. Respiratory rate 16, blood pressure 165/90, visual acuity with glasses, right eye 20/20 and left eye 20/30. HEENT: Normal cephalic and atraumatic. Pupils equal and round and reactive to light. Extraocular muscles were intact. Sclera were non-icteric. Oropharynx clear without any lesions. The neck was subtle with no JVD noted. No bruit and no thyromegaly. In the respiratory, the chest was equal on expansion bilaterally. The chest was barrel-shaped with moderate hyperinflation and scattered wheezing bilaterally, but no rales and no rhonchi. No retraction or accessory muscle use. For cardiovascular: the patient had regular rate and rhythm. For gastrointestinal, the abdomen was soft and non-tender. No guarding or rebound. No palpable masses. No organomegaly. In the extremities, the patient was overly obese, he had difficulty squatting, he had good hand grip with no joint deformity or enlargement. He had limitation of ranges of motion of the lumbosacral region, but his gait is stable. He could not do tandem walk. He managed to get on and off the examination table. His straight leg raising was reduced to 60 degrees bilaterally. In the neurological area, in general the claimant was alert, awake and oriented to person, place and time. Cranial nerves II-XII was intact. Sensory functions are intact to sharp and dull gross testing. Motor examination reveals fair muscle tone without flaccidity, spasticity or paralysis. Based upon the examination that claimant would have some difficulty

working a full day as far as his physical examination was concerned, because he was morbidly obese and he had limitations of motion in his back, which could limit his walking. His walking was also limited due to his chronic obstructive pulmonary disease. His standing is usually about ½ an hour and then he needs to sit down because of his spinal stenosis. The patient was unable to squat. However, his manipulation should be unlimited. He has good hand grip and range of motion. The patient would have difficulty climbing ropes, ladders, and scaffolding and chairs would be limited to one flight. He had fine and gross dexterity, which appear to be intact. The patient was right-handed. The patient had good hand grip bilaterally. Tinel and Phalen's were negative. There was no atrophy or sensory changes, osteoarthritis or spinal disorder. The patient has chronic low back pain, very likely related to his morbid obesity, and he has a history of bulging disc at the L4-L5 level but not with radiculopathy. There are limitations for range of motion and in his the ability to squat and limitations to his gait, but there are no circulatory deficits. There are no sensory or motor reflex findings. No joint deformity or enlargements. In ambulation, the patient ambulated reasonably well. He did not utilize any ambulation aid. He was unable to squat and unable to do tandem walk. His straight leg raising was negative to 60 degrees. He managed to get on and off the examination table with no problems. The patient clearly has COPD and respiratory problems, secondary to a long history of heavy smoking. He continues to smoke. He has a barrel-shaped chest with moderate hyperplasia with walking less than 2 blocks, or after one flight of stairs which makes him very short of breath. There is fatigue with activities after about an hour. There is no evidence of cyanosis or clubbing at this time. Respiratory rate was slightly accelerated. (pages 3-6)

A medical examination report in the file indicates that claimant is normal in all areas of examination based upon a June 1, 2009 examination. He is 5' 9" tall and weighed 265 pounds.

His blood pressure was 130/90 and he is right-hand dominant. The clinical impression was that his condition is stable and that he could occasionally lift 20 pounds and frequently lift 10 pounds or less. Claimant could stand and walk for about 6 hours in an 8-hour workday. Claimant did not require assistive devices for ambulation. Claimant could do simple grasping, reaching, pushing and pulling and fine manipulating with both upper extremities and could operate foot and leg controls with both feet and legs. Claimant did not have any mental limitations. (pages 17, 18)

Claimant does not have an impairment or combination of impairments which meets or equals the severity of a listing impairment in Appendix I.

In the third step of the sequential evaluation, the trier of fact must determine whether there has been medical improvement as defined in 20 CFR 416.994(b)(1)(i). 20 CFR 416.994(b)(5)(iii). Medical improvement is defined as any decrease in the medical severity of the impairment(s) which was present at the time of the most recent favorable medical decision that the claimant was disabled or continues to be disabled. A determination that there has been a decrease in medical severity must be based on changes (improvement) in the symptoms, signs, and/or laboratory findings associated with claimant's impairment(s). If there has been medical improvement as shown by a decrease in medical severity, the trier of fact must proceed to Step 4 (which examines whether the medical improvement is related to the claimant's ability to do work). If there has been no decrease in medical severity and thus no medical improvement, the trier of fact moves to Step 5 in the sequential evaluation process.

In this case, the Administrative Law Judge finds that claimant does have medical improvement and that there has been a decrease in the medical severity of his condition since he received the fully favorable decision and the closed period of SSI benefits.

In the fifth step of the sequential evaluation, the trier of fact must consider whether any of the exceptions in 20 CFR 416.994(b)(3) and (b)(4) apply. If none of them apply, claimant's disability must be found to continue. 20 CFR 416.994(b)(5)(v).

The first group of exceptions to medical improvement (i.e., when disability can be found to have ended even though medical improvement has not occurred), found in 20 CFR 416.994(b)(3), are as follows:

- (1) Substantial evidence shows that the claimant is the beneficiary of advances in medical or vocational therapy or technology (related to claimant's ability to work).
- (2) Substantial evidence shows that the claimant has undergone vocational therapy (related to claimant's ability to work).
- (3) Substantial evidence shows that based on new or improved diagnostic or evaluative techniques, claimant's impairment(s) is not as disabling as it was considered to be at the time of the most recent favorable medical decision.
- (4) Substantial evidence demonstrates that any prior disability decision was in error.

In examining the record, this Administrative Law Judge finds that substantial evidence in this case demonstrates that the prior disability decision which allowed claimant to have an open disability case from October 2007 through the present was in error, based upon the fact that the SSI decision gave claimant a closed period of SSI benefit eligibility.

SSA's determination that disability or blindness does not exist for SSI purposes is final for MA if the determination was made after 1/1/90, and no further appeals may be made at SSA, or the client failed to file an appeal at any step within SSA's 60-day limit, and the client is not claiming: A totally different disabling condition than the condition SSA based its determination on, or an additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on. Eligibility for MA based on disability or blindness does not exist once

SSA's determination is final. PEM, Item 260, pp. 2-3. Relevant federal regulations are found at 20 CFR 435.541(a)(2)(b). These regulations provide that a Social Security determination is binding on the State agency. These regulations further provide that if the Social Security Administration changed its decision then that new decision would be binding on the State agency. DHS policy also indicates that the Social Security determination takes precedence over an MRT determination. PAM, Item 815.

The second group of exceptions is medical improvement, found at 20 CFR 416.994(b)(4), are as follows:

- (1) A prior determination was fraudulently obtained.
- (2) Claimant did not cooperate.
- (3) Claimant cannot be located.
- (4) Claimant failed to follow prescribed treatment which would be expected to restore claimant's ability to engage in substantial gainful activity.

After careful review of the record, this Administrative Law Judge finds that the second group of exceptions does not apply.

In Step 4 of the sequential evaluation, the trier of fact must determine whether medical improvement is related to claimant's ability to do work in accordance with 20 CFR 416.994(b)(1)(i) through (b)(1)(iv). 20 CFR 416.994(b)(5)(iv). It is the finding of this Administrative Law Judge, after careful review of the record, that there has been an increase in claimant's residual functional capacity based on the impairment that was present at the time of the most favorable medical determination.

The residual functional capacity is what an individual can do despite limitations. All impairments will be considered in addition to ability to meet certain demands of jobs in the

national economy. Physical demands, mental demands, sensory requirements and other functions will be evaluated.... 20 CFR 416.945(a).

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and 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).

This Administrative Law Judge finds that based upon the evidence contained in this file that claimant would retain the ability to perform at least simple, repetitive light work.

Thus, this Administrative Law Judge finds that claimant's medical improvement is related to claimant's ability to do work. If there is a finding of medical improvement related to claimant's ability to perform work, the trier of fact is to move to Step 6 in the sequential evaluation process.

In the sixth step of the sequential evaluation, the trier of fact is to determine whether the claimant's current impairment(s) is severe per 20 CFR 416.921. 20 CFR 416.994(b)(5)(vi). If the residual functional capacity assessment reveals significant limitations upon a claimant's ability to engage in basic work activities, the trier of fact moves to Step 7 in the sequential evaluation process. In this case, the residual functional capacity assessment indicates that claimant should be able to perform light or sedentary work even with his impairments.

In the seventh step of the sequential evaluation, the trier of fact is to assess a claimant's current ability to engage in substantial gainful activities in accordance with 20 CFR 416.960 through 416.969. 20 CFR 416.994(b)(5)(vii). The trier of fact is to assess the claimant's current residual functional capacity based on all current impairments and consider whether the claimant can still do work he/she has done in the past. In this case, this Administrative Law Judge finds that claimant can probably not perform tool and die work with his impairments, but he does retain the ability to perform simple and repetitive tasks.

In the final step, Step 8, of the sequential evaluation, the trier of fact is to consider whether the claimant can do any other work, given the claimant's residual function capacity and claimant's age, education, and past work experience. 20 CFR 416.994(b)(5)(viii). In this case, this Administrative Law Judge finds that given the claimant's residual functional capacity assessment and the claimant's age, education and past work experience, claimant can perform medium, light or sedentary work even with his impairments as long as that work is simple and repetitive.

Claimant's complaints of pain, while profound and credible, are out of proportion to the objective medical evidence contained in the file as it relates to claimant's ability to perform

work. Claimant did testify on the record that he does receive some relief from his pain medication.

Claimant does continue to smoke a pack of cigarettes per day and his doctor has told him to quit and he is not in a smoking cessation program. Therefore, claimant is not in compliance with his treatment program.

If an individual fails to follow prescribed treatment which would be expected to restore their ability to engage in substantial gainful activity without good cause, there will not be a finding of disability.... 20 CFR 416.994(b)(4)(iv).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

There is insufficient objective medical/psychiatric evidence contained in the file of depression or a cognitive dysfunction that is so severe that it would prevent claimant from working at any job. Under the Medical Vocational guidelines, pursuant to Medical Vocational Rule 202.14 and 202.15, a person of claimant's age, education and work history who is limited to medium work is not considered to be disabled.

The department's Program Eligibility Manual contains the following policy statements and instructions for caseworkers regarding the State Disability Assistance program: to receive State Disability Assistance, a person must be disabled, caring for a disabled person or age 65 or older. BEM, Item 261, p. 1. Because the claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not establish that claimant is unable



to work for a period exceeding 90 days, the claimant does not meet the disability criteria for State Disability Assistance benefits either.

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 on the record that it was acting in compliance with department policy when it denied claimant's continued application for Medical Assistance, retroactive Medical Assistance and State Disability Assistance benefits. The claimant should be able to perform a wide range of medium, light or sedentary work even with his impairments. The department has established this case by a preponderance of the evidence. Claimant does have medical improvement.

Accordingly, the department's decision is AFFIRMED.

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/s/  
Landis Y. Lain  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: June 04, 2010

Date Mailed: June 7, 2010

**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.

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