

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES**

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2010-40265  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: August 16, 2010  
DHS County: Wayne (82-18)

**ADMINISTRATIVE LAW JUDGE:** Colleen M. Mamelka

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held in Taylor, Michigan, on Monday, August 16, 2010. The Claimant appeared, along with [REDACTED], and testified. The Claimant was represented by [REDACTED]. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

During the hearing, the Claimant waived the time frame for the issuance of this decision in order to allow for the submission of additional medical records. The evidence was received, reviewed, and entered as Claimant Exhibits A – D. This matter is now before the undersigned for a final decision.

**ISSUE**

Whether the Department properly determined that the Claimant was not disabled for purposes of the Medical Assistance ("MA-P") benefit program?

**FINDINGS OF FACT**

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

1. The Claimant submitted an application for public assistance seeking MA-P benefits on January 1, 2010.
2. On March 19, 2010, the Medical Review Team ("MRT") found the Claimant not disabled. (Exhibit 1, pp. 3, 4)

3. On March 23, 2010, the Department notified the Claimant of the MRT determination. (Exhibit 1, p. 1)
4. On June 18, 2010, the Department received the Claimant's timely written request for hearing.
5. On July 7, 2010, the State Hearing Review Team ("SHRT") found the Claimant not disabled. (Exhibit 2)
6. The Claimant alleged physical disabling impairments due to back pain, shortness of breath, high blood pressure, myocardial infarction, diabetes mellitus, brain tumors/lesions, headaches, sleep apnea, and strokes.
7. The Claimant alleged mental disabling impairments due to depression, cognitive and adjustment disorder.
8. At the time of hearing, the Claimant was 33 years old with an [REDACTED], birth date; was 6' in height; and weighed approximately 250 pounds.
9. The Claimant has the equivalent of a high school education with an employment history in residential and commercial painting.
10. The Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

### **CONCLUSIONS OF LAW**

The Medical Assistance ("MA") program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, formerly known as the Family Independence Agency, 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 Bridges Reference Manual ("BRM").

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). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make

appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to

provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

In addition to the above, when evaluating mental impairments, a special technique is utilized. 20 CFR 416.920a(a). First, an individual's pertinent symptoms, signs, and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitation(s) is assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively, and on a sustained basis. *Id.*; 20 CFR 416.920a(c)(2). Chronic mental disorders, structured settings, medication and other treatment, and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of functional limitation. 20 CFR 416.920a(c)(3). The degree of limitation for the first three functional areas is rated by a five point scale: none, mild, moderate, marked, and extreme. 20 CFR 416.920a(c)(4). A four point scale (none, one or two, three, four or more) is used to rate the degree of limitation in the fourth functional area. *Id.* The last point on each scale represents a degree of limitation that is incompatible with the ability to do any gainful activity. *Id.*

After the degree of functional limitation is determined, the severity of the mental impairment is determined. 20 CFR 416.920a(d). If severe, a determination of whether the impairment meets or is the equivalent of a listed mental disorder is made. 20 CFR 416.920a(d)(2). If the severe mental impairment does not meet (or equal) a listed impairment, an individual's residual functional capacity is assessed. 20 CFR 416.920a(d)(3).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity and, therefore, is not ineligible for disability benefits under Step 1.

The severity of the claimant's alleged impairment(s) is considered under Step 2. The claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c).

Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples 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.

*Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, the Claimant alleges disability due to back pain, shortness of breath, high blood pressure, myocardial infarction, diabetes mellitus, brain tumors/lesions, headaches, sleep apnea, strokes, depression, cognitive disorder, and adjustment disorder.

On [REDACTED], the Claimant was admitted to the hospital with cough, cold, chest discomfort, fever, and chills. The Claimant was discharged on [REDACTED] [REDACTED] with the diagnoses of bronchitis with reactive airway disease, pleuritic chest pain, obesity, possible sleep apnea, hypertension, drug-induced angioedema, and cardiac arrhythmia (cough induced).

On [REDACTED], the Claimant sought treatment for a left hand laceration.

On [REDACTED], the Claimant sought treatment after an alleged assault. X-rays found soft tissue swelling without evidence of fracture. A CAT scan found comminuted nasal bone fracture with soft tissue swelling and mild ethmoid cell mucosal thickening without acute process. The Claimant was treated and discharged.

On [REDACTED], the Claimant sought treatment for a stab wound to his left leg.

On [REDACTED], the Claimant was admitted to the hospital after being found unresponsive. The Claimant was intubated for 7 days and was positive for opiates and cocaine. On [REDACTED] an MRI of the brain revealed bilateral basal ganglia peripherally enhancing lesions with multiple cerebellar hemispheric enhancing lesions and restricted diffusion in the splenium of the corpus callosum (improved from prior study). On [REDACTED], the Claimant underwent a right frontal frameless stereotactic biopsy of the brain lesion without complication. The biopsy showed some necrosis and inflammation but was otherwise non-diagnostic. The Claimant's history of cocaine intoxication and cerebellar deficit were noted. On [REDACTED], an MRI of the brain found multiple enhancing lesions and restricted diffusion. Tuberculosis, toxoplasmosis, lymphoma, or other neoplastic process was not excluded. The Claimant was discharged on [REDACTED] after an MRI showed the lesions were stable and/or of decreased size. The diagnoses were acute respiratory failure secondary to cocaine use, acute stroke secondary to cocaine abuse, ventilator associated pneumonia, non ST segment elevation myocardial infarction secondary to cocaine abuse, rhabdomyolysis, diabetes mellitus, hypertension, and acute renal insufficiency.

From [REDACTED], the Claimant sought treatment for back pain and hypertension on a monthly basis.

On [REDACTED], a Medical Needs form was completed on behalf of the Claimant. The current diagnosis was brain lesion requiring 6 to 12 months of medical treatment. The Claimant was found able to meet the demands of daily activity but found unable to work any job.

On [REDACTED], the Claimant was diagnosed with headache and brain tumor.

On [REDACTED], an MRI of the brain compared with the [REDACTED] MRI showed interval improvement without development of new lesions.

On [REDACTED], the Claimant sought treatment for headaches. The resolution of the lesions was found likely cocaine induced. The Claimant was instructed to follow-up with neurosurgery.

On [REDACTED], the brain images were reviewed which showed improvements of the enhancing lesions including the biopsy in the right caudate region lesion. A follow-up MRI was recommended in three months.

On [REDACTED], the Claimant was admitted to the hospital with complaints of severe headache, nausea, and vomiting. The MRI of the brain revealed lesions. The Claimant was treated and diagnosed (on [REDACTED] [REDACTED]) with headache, nausea, vomiting, hypertension, obesity, and sleep apnea.

On [REDACTED], the Claimant attended a consultative psychiatric evaluation. The diagnoses were a long history of cocaine and alcohol intoxication, abuse, and dependence, cognitive disorder (not otherwise specified) due to substance abuse and current organic lesions in the brain, and adjustment disorder with mixed features. Major depression was not ruled out. The Global Assessment Functioning ("GAF") was 40 and his prognosis was poor. The Claimant seemed to need monitoring most of the time and he was found unable to manage benefit funds.

The Claimant's treating physician wrote an undated letter on behalf of the Claimant which confirmed treatment for recurrent, severe headache. The Physician opined that the Claimant was unable to stand for long periods of time or walk up stairs due to low back pain, numbness, and leg weakness. In addition, the Claimant was found unable to lift more than 10 pounds due to severe arm weakness.

On [REDACTED], the Claimant's treating physician found him totally disabled from [REDACTED] [REDACTED] [REDACTED] due to severe back pain. The Claimant was diagnosed with hypertension also.

As previously noted, the Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, the Claimant has presented some medical evidence establishing that he does have some physical and mental limitations on his ability to perform basic work activities. The medical evidence has established that the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis 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. The Claimant has alleged physical and mental disabling impairments due to back pain, shortness of breath, high blood pressure, myocardial infarction, diabetes mellitus, brain tumors/lesions, headaches, sleep apnea, strokes, depression, cognitive disorder, and adjustment disorder.

Listing 1.00 (musculoskeletal system), Listing 3.00 (respiratory system), Listing 4.00 (cardiovascular system), Listing 9.00 (endocrine system), Listing 11.00 (neurological system), Listing 12.00 (mental disorders) and Listing 13.00 (malignant neoplastic diseases) were considered in light of the objective evidence. The objective medical records also establish the Claimant has a history of cocaine and alcohol abuse which has directly and materially contributed to most of the Claimant's impairments. That being stated, it is found that the Claimant's brain lesions and cognitive dysfunction would remain independent of the abuse. Ultimately, based on the medical evidence, it is found that the Claimant's impairment(s) do not meet the intent and severity requirements of a listed impairment. Accordingly, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a)

The fourth step in analyzing a disability claim requires an assessment of the claimant's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy are not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s) and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). 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. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though 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. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.* Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds.



20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty function due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (e.g., can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

The Claimant's prior work history consists of work in residential and commercial painting. In light of the Claimant's testimony and in consideration of the Occupational Code, the Claimant's prior work is classified as semi-skilled, medium work.

The Claimant testified that he is able to walk short distances; sit for less than 2 hours; lift/carry less than 10 pounds; stand for short periods of time; and has difficulties bending and/or squatting. The medical evidence found the Claimant unable to stand for long periods of time; walk up stairs, or lift more than 10 pounds. The consultative psychiatric evaluation noted the Claimant's long history of cocaine/alcohol intoxication, abuse, and dependence. The diagnosis of cognitive disorder was due to the substance abuse and current organic brain lesions. The Claimant was also diagnosed with

adjustment disorder with mixed features and a GAF of 40. The Claimant's prognosis was poor. If the impairment or combination of impairments does not limit physical or mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of the Claimant's testimony, medical records, and current limitations, it is found that the Claimant is not able to return to past relevant work; thus, the fifth step in the sequential analysis is required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, the Claimant was 33 years old and, thus, considered to be a younger individual for MA-P purposes. The Claimant has the equivalent of a high school education. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity for substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983). Where an individual has an impairment or combination of impairments that results in both strength limitations and non-exertional limitations, the rules in Subpart P are considered in determining whether a finding of disabled may be possible based on the strength limitations alone and, if not, the rule(s) reflecting the individual's maximum residual strength capabilities, age, education, and work experience, provide the framework for consideration of how much an individual's work capability is further diminished in terms of any type of jobs that would contradict the nonexertional limitations. Full consideration must be given to all relevant facts of a case in accordance with the definitions of each factor to provide adjudicative weight for each factor.

In this case, the evidence reveals that the Claimant suffers from back pain, headaches, cognitive disorder, and brain lesions. The objective medical evidence combined with the mental limitations place the Claimant at the less than sedentary activity level. The total impact caused by the combination of physical and mental impairments suffered by the Claimant must be considered. In doing so, it is found that the Claimant's physical and mental impairments have a major effect on his ability to perform basic work activities. Accordingly, it is found that the Claimant is unable to perform the full range of activities necessary for sedentary work as defined in 20 CFR 416.967(a). After review

of the entire record, it is found that the Claimant is disabled for purposes of the MA-P program at Step 5.

In some circumstances, benefit payments can, or must, be restricted to someone other than the individual (program group). BAM 420. A protective payee is a person/agency selected to be responsible for receiving and managing the cash assistance on behalf of the individual (program group) as a third party. *Id.* Restricted payments are required in any of the following circumstances:

- Court-ordered shelter arrearage collection
- Third-party resource disqualification
- Minor parent
- Substance abuse
- Client convicted of a drug-related felony
- Money mismanagement
- A child(ren) receiving FIP has a legal guardian
- Eviction or threatened eviction

*Id.*

Restricted payment status is reviewed when appropriate but at least at every determination. *Id.* The client has the right to request and be granted a review of the restricted payment status every six months. *Id.* An individual (group) may request a hearing to dispute a decision to begin or continue restricted payments or dispute the selection of a protected payee. *Id.* Restricted payments are continued until the hearing matter is resolved. *Id.*

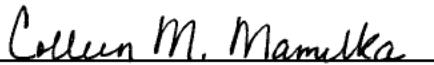
### **DECISION AND ORDER**

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds the Claimant disabled for purposes of the MA-P benefit program.

Accordingly, It is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall process the January 21, 2010, application to determine if all other non-medical criteria are met and inform the Claimant of the determination in accordance with Department policy.

3. The Department shall, in light of the Claimant's history of alcohol abuse, evaluate the need for a protective payee (if Claimant seeks SDA benefits) in accordance with Department policy.
4. The Department shall supplement for any lost benefits (if any) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.
5. The Department shall review the Claimant's continued eligibility in May 2012 in accordance with Department policy.

  
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**Colleen M. Mamelka**  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: May 9, 2011

Date Mailed: May 10, 2011

**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.

CMM/pf

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