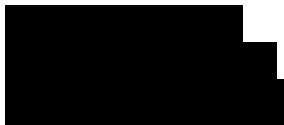


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2010-39692
Issue No: 2009
Case No: [REDACTED]
Hearing Date:
August 4, 2011
Luce County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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, an in-person hearing was held on August 4, 2011. Claimant personally appeared and testified.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P) and Retro-MA?

FINDINGS OF FACT

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

- (1) On March 5, 2010, Claimant filed an application for MA and Retro-MA benefits alleging disability.
- (2) On March 23, 2010, the Medical Review Team (MRT) denied Claimant's application for MA-P stating the impairment lacks duration of 12 months pursuant to 20 CFR 416.909. (Department Exhibit A, pages 24-25).
- (3) On March 31, 2010, the department caseworker sent Claimant notice that her application was denied.
- (4) On April 5, 2010, the department received additional medical notes from Claimant. (Hearing Summary).
- (5) On May 12, 2010, the department mailed the original medical packet along with the new medical information to MRT. (Hearing Summary).

- (6) On May 20, 2010, MRT upheld the original denial of March 23, 2010. (Department Exhibit A, pages 48-49).
- (7) On June 11, 2010, Claimant filed a request for a hearing to contest the department's negative action.
- (8) On June 30, 2010, SHRT denied Claimant's application for MA-P based on insufficient evidence pursuant to 20 CFR 416.913(d) and requested a psychiatric evaluation of Claimant and the Activities of Daily Living form from Claimant. (Department Exhibit B, pages 11, 17-18).
- (9) On August 15, 2010, Claimant submitted the Activities of Daily Living form indicating that she does prepare her own meals, assists in housework, camps and swims. (Department Exhibit B, pages 12-16).
- (10) On November 17, 2010, SHRT denied Claimant's application after reviewing the newly submitted medical evidence and correspondence because Claimant's condition does not meet the durational requirements and her condition is improving or expected to improve within 12 months. SHRT also found that Claimant retains the capacity to perform a wide range of simple and repetitive tasks and she has no physical limitations. (Department's Exhibit B, pages 1-2).
- (11) Claimant has a history of acute and subacute endocarditis, acute renal failure, bipolar disorder and polysubstance dependence.
- (12) On [REDACTED] Claimant was admitted to the hospital for dehydration, acute renal failure, and an unspecified psychosis. At discharge she was diagnosed with acute and subacute endocarditis, empyema, glomerulonephritis, acute renal failure and unspecified psychosis. Claimant admitted to IV heroin use and injecting morphine prior to arrival. (Department Exhibit A, pages 7-8, 35).
- (13) Infective Endocarditis: Claimant was diagnosed with systemic inflammatory response syndrome. On [REDACTED] 0, blood culture came back positive for MRSA. TTE and TEE were done confirming suspicion of endocarditis, Claimant had anterior tricuspid leaflet vegetation. A PICC line was placed on [REDACTED] Acrocyanosis on right foot was present and seen as septic emboli versus frostbite.
- (14) Pneumonia with empyema secondary to septic emboli: Lower lobe pneumonia and upper right lobe cavity lesion suspected based on initial CXRs. On [REDACTED], Claimant had CTs of abdomen and pelvis ordered to look for septic emboli, revealed multiple cavity lesions and left sided loculated empyema. Claimant had U/S guided thoracentesis on [REDACTED] with fluid removed and analyzed. VATS done for

drainage and decortication on [REDACTED], two left sided chest tubes were placed. One chest tube removed [REDACTED] and another removed on [REDACTED]. Followed by Blue surgery. Per ID recommendations, Claimant was given 7 day course of linezolid February [REDACTED]. Linezolid discontinued as daptomycin was also found to be effective to treat the organisms in the pleural fluid cultures. (Department Exhibit A, page 35).

- (15) Acute kidney Injury, contrast nephropathy, Glomerulonephritis secondary to endocarditis: Claimant presented on [REDACTED] with an acute kidney injury (AKI), likely pre-renal, resolved by [REDACTED] 10. Claimant had a CT scan with contrast done on [REDACTED] and a day later her creatinine was found to be elevated. Nephrology consulted, thought AKI may be contrast induced (CT on 2/19). On [REDACTED] urine revealed RBC and muddy brown casts. Diagnosed with glomerulonephritis superimposed acute tubular necrosis. By the time of discharge on [REDACTED] her AKI was resolved and creatinine level stabilized at 1.9-2.0 for over 4-5 days. (Department Exhibit A, page 34).
- (16) Psychosis: Psychiatry was following Claimant for management of bipolar disorder. Initially placed on Haldol and Ativan. Later she was started on Seroquel, the dose of which was increased to 100 mg PO Bid and 200 mg PO QUS at the time of discharge. Claimant was placed on elopement precautions and a sitter initially. The sitter was discontinued later during that admission. (Department Exhibit A, page 34).
- (17) On [REDACTED] the Transesophageal Echocardiography Report showed Claimant's left ventricle was normal size, thickness and systolic function. The visually estimated left ventricular ejection fraction is 65-70%. Normal left ventricular diastolic function (tissue Doppler). Normal left atrial size. Normal right ventricle size, thickness and global systolic function. The right atrium appears mild to moderately dilated. The aortic root appears normal. The main and branch pulmonary arteries appear normal. The IVC was normal in size and displayed respiratory variation. Left pleural effusion present. Trivial pericardial effusion is noted, of no hemodynamic significance. Normal morphologic appearance and function of aortic valve. Normal mitral valve appearance and function, mild centrally directed mitral regurgitation. Anterior tricuspid valve leaflet tip displays vegetative thickening. The corresponding chorda demonstrates a pedunculated vegetative mass. There is severe pulmonary hypertension. Mild to moderate tricuspid regurgitation. No pulmonic valve regurgitation. The pulmonary valve is well visualized and normal. (Department Exhibit A, pages 9-11, 29-31).
- (18) On [REDACTED] a thoracoscopic evacuation of clotted pleural effusion with removal of fibrinogelatinous material from visceral and

parietal surfaces of lung with freeing of entrapped lung and chest tube placement was completed.

- (19) On [REDACTED] a Renal Ultrasound was performed on Claimant showing a normal size kidney without evidence of hydronephrosis and right pleural effusion. (Department Exhibit A, pages 14-15).
- (20) On [REDACTED] during a follow-up visit, Claimant was in mild distress, with labored respirations. Cardiovascular: Good pulses equal in all extremities, systolic murmur present in the tricuspid area, could not appreciate the difference in respiration. Integumentary: dry, purplish skin lesions have improved a lot compared to admission. Impression and Plan: Infective endocarditis with septic emboli to lungs; MRSA bacteremia-repeat blood cultures have been negative; VATS procedure done with thoracostomy placed for loculated pleural effusion due to septic emboli; currently on [REDACTED] 13-to continue dosing Q48 hours based on creatinine levels. To check a CPK level every week. Renal failure-contrast induced nephropathy versus immune complex glomerulonephritis. Expected to subside. To continue treatment for infective endocarditis. (Department Exhibit A, pages 16-18).
- (22) On [REDACTED] Claimant was discharged from the hospital and into a supervised care facility until the completion of her antibiotics course of 6 weeks. At discharge she was alert and oriented, no acute distress. Respiratory: no wheeze, respirations were non-labored, some decrease BS left LL, bronchial breath sounds heard on the left side. Cardiovascular: regular rate, regular rhythm, holosystolic murmur best heard at the tricuspid area. Musculoskeletal: right foot toes black discoloration noted from the anterior third of sole to dorsal surface of all the toes. No dorsum of foot involved. Right arm swelling much improved when compared to earlier. Psychiatric: Cooperative. Discharge status: stable. (Department Exhibit A, page 32-34).
- (23) On [REDACTED] an Independent Medical Evaluation (IME) was performed on Claimant. The IME noted Claimant was referred because she is seeking State Disability and Medicaid and appears to have considerable physical, emotional and behavioral issues mostly related to a long history of drug abuse and dependence. The Biopsychosocial Assessment indicated Claimant was in the hospital this winter for endocarditis. She still has a heart murmur and likely developed a staph infection in the hospital. She has a history of fluctuating weight and has recently gained 60 pounds from 120 to 180 pounds. Her current medications are Norco and Neurontin. She has injected cocaine, heroin, and morphine. She has snorted Oxycodone. She has used pot, acid and ecstasy. She denies use of illegal drugs since February 2010. She smokes as much as a pack of cigarettes a day and on occasion drinks

alcohol. She says she will then drink a six pack or a pint. In addition to her drug rehab stint in which she was kicked out, she has also attended inpatient rehabilitation. While in the hospital for endocarditis she was often uncooperative with health providers. She argued and was viewed as potentially assaultive. She was diagnosed with Bipolar Disorder and placed on Seroquel, Norco, and morphine. She blames the drugs for her aberrant behavior and near delusional behavior. When placed in solitary confinement shortly after entering prison, she blamed her assaultive behavior on her recent use of Methadone and Xanax. Her mental status examination showed her thought processes were not logical and coherent. She had flight of ideas. She was tangential and circumstantial. She did not listen. She talked non-stop. Her intelligence is likely average. Her attention, memory, insight, and judgment are likely compromised. She is not a danger to others but could be a danger to herself if she gets back on drugs. She has trouble with empathy. Appears sincere on desire to stay off drugs and pursue happiness conventionally and more constructively. She has placed herself in harm's way numerous times, seeking and using drugs like heroin and cocaine, often ingesting them. She has been found passed out twice; once in a dumpster and once on the railroad tracks. She is currently not being treated for any mental problems. Diagnosed on Axis I: Bipolar I Disorder, most recent episode mixed, and Polysubstance Dependence in Early Full Remission; Axis III: Endocarditis, Staph Infection; Axis IV: Severe; Axis V: GAF 40. Claimant's Mental Residual Functional Capacity Assessment shows Sustained Concentration and Persistence is markedly limited under her ability to maintain attention and concentration for extended periods, to perform activities within a schedule, maintain regular attendance, and be punctual with customary tolerances, to work in coordination with or proximity to others without being distracted by them. She was moderately limited in her ability to sustain an ordinary routine without supervision and to complete a normal workday and worksheet without interruptions from psychologically based symptoms and to perform at a consistent pace without an unreasonable number and length of rest periods. Claimant's social interaction and ability to interact appropriately with the general public and to accept instructions and respond appropriately to criticism from supervisors was markedly limited, while her ability to get along with co-workers or peers without distracting them or exhibiting behavior extremes was moderately limited. Claimant's ability to set realistic goals or make plans independently of others was markedly limited under adaptation. The doctor indicated that Claimant needs treatment for bipolar disorder assessment, medications and psychotherapy and on-going treatment for substance dependence in an outpatient setting if she is to improve and not regress. (Department Exhibit B, pages 3-10).

- (24) Claimant is a 33 year old woman whose birthday is [REDACTED]. Claimant is 5'8" tall and weighs 180 lbs. Claimant completed high school and some college.
- (25) Claimant was denied Social Security disability benefits and has hired an attorney at the time of this hearing.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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, that being a five-step sequential evaluation process for determining whether an individual is disabled. (20 CFR 404.1520(a) and 416.920(a)). The steps are followed in order. Current work activity, severity of impairments, residual functional capacity, past work, age, or education and work experience is reviewed. If it is determined that the claimant is or is not disabled at a step of the evaluation process, the evaluation will not go on to the next step.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity. (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities. (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized. (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he/she has demonstrated the ability to engage in SGA. (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he/she is not disabled regardless of how severe his/her physical or mental impairments are and regardless of his/her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is “severe” or a combination of impairments that is “severe.” (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is “severe” within the meaning of the regulations if it significantly limits an individual’s ability to perform basic work activities. An impairment or combination of impairments is “not severe” when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual’s ability to work. (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he/she is not disabled. If the claimant has a severe impairment or combination of impairments, the analysis proceeds to the third step.

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). 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).

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1. (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement, (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity. (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered. (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his/her past relevant work. (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 years or 15 years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA. (20 CFR 404.1560(b), 404.1565,

416.960(b), and 416.965). If the claimant has the residual functional capacity to do his/her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering his/her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he/she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he/she is disabled.

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).

At Step 1, Claimant is not engaged in substantial gainful activity and testified that she is only working part-time. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, in considering Claimant's symptoms, whether there is an underlying medically determinable physical or mental impairment(s)-i.e., an impairment(s) that can be shown by medically acceptable clinical and laboratory diagnostic techniques-that could reasonably be expected to produce Claimant's pain or other symptoms must be determined. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of Claimant's symptoms to determine the extent to which they limit Claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

At Step 2, the objective medical evidence of record shows Claimant was diagnosed with acute endocarditis, acute renal failure, bipolar disorder and a history of polysubstance abuse. The finding of a severe impairment at Step 2 is a *de minimus* standard. This Administrative Law Judge finds that Claimant established that at all times relevant to this matter Claimant had acute endocarditis, bipolar disorder and a history of polysubstance abuse which would affect her ability to do substantial gainful activity. Therefore, the analysis will continue to Step 3.

At Step 3 the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment.

Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d).

At Step 4, Claimant's past relevant employment has been as a bartender and waitress. The objective medical evidence of record is not sufficient to establish that Claimant has severe impairments that have lasted or are expected to last 12 months or more and prevent her from performing the duties required from her past relevant employment for 12 months or more. Accordingly, Claimant is disqualified from receiving disability at Step 4.

The Administrative Law Judge will continue to proceed through the sequential evaluation process to determine whether or not Claimant has the residual functional capacity to perform other jobs.

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).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

At Step 5, the burden of proof shifts to the department to establish that Claimant does have residual function capacity. 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. See discussion at Step 2 above. Finding of Fact 17, 22-23.

At Step 5, the objective medical evidence of record is sufficient to establish that Claimant is capable of performing at least heavy duties. Claimant is alleging she suffers from acute and subacute endocarditis, acute renal failure and bipolar disorder. However, Claimant's acute renal failure was resolved at discharge on March 4, 2010 and she was stable and released without any restrictions. There is no evidence Claimant has had any medical treatment since her release from the hospital on March 4, 2010 for any problems. According to the independent medical examination, Claimant is not being treated for any mental problems. Furthermore, Claimant testified she is working part-time.

Therefore, this Administrative Law Judge finds that the objective medical evidence on the record does establish that Claimant has the residual functional capacity to perform other work. As a result, Claimant is disqualified from receiving disability at Step 5 based upon the fact that the objective medical evidence on the record shows she can perform heavy work. Under the Medical-Vocational guidelines, a younger individual age 18 - 49 (Claimant is 33 years of age), who is a high school graduate with some college and has an unskilled or limited work history is not considered disabled pursuant to Medical-Vocational Rule 204.

As a result, Claimant has not presented the required competent, material, and substantial evidence which would support a finding that Claimant has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). Although Claimant has cited medical problems, the clinical documentation submitted by Claimant is not sufficient to establish a finding that Claimant is disabled. There is no objective medical evidence to substantiate Claimant's claim that the alleged impairment(s) are severe enough to reach the criteria and definition of disabled. Accordingly, Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that Claimant was not eligible to receive Medical Assistance.

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 application for Medical Assistance, and retroactive Medical Assistance benefits.

Accordingly, the department's decision is AFFIRMED.

It is SO ORDERED.

____/s/

Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 24, 2011

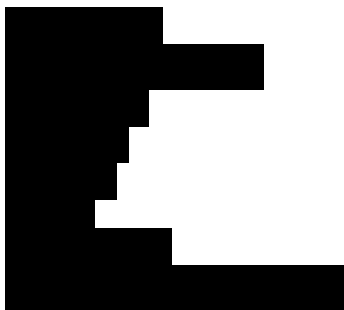
Date Mailed: August 24, 2011

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.

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