

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 201051064
Issue No. 2009
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 30, 2010
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on Thursday, September 30, 2010. The claimant personally appeared and testified on his own behalf with his authorized representative and law clerk, [REDACTED].

ISSUE

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

FINDINGS OF FACT

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

1. On February 23, 2010, the claimant applied for MA-P.
2. On June 14, 2010, the Medical Review Team (MRT) denied the claimant's application for MA-P and retroactive MA-P stating that the claimant had a non-exertional impairment.
3. On June 20, 2010, the department caseworker sent the claimant a notice that his application was denied.
4. On August 16, 2010, the department received a hearing request from the claimant, contesting the department's negative action.

5. On September 3, 2010, the State Hearing Review Team (SHRT) considered the submitted objective medical evidence in making its determination of MA-P and retroactive MA-P eligibility for the claimant. The SHRT report reads in part:

The claimant is alleging disability due to degenerative disc disease, low back and knee pain, and nerve damage. He is 44 years old with 10 years of education and a history of unskilled work. The claimant did not meet applicable Social Security Listing 1.01. The claimant is capable of performing work that is light work per 20 CFR 416.967(b) and unskilled work per 20 CFR 416.968(a) under Vocational Rule 202.20.

6. The claimant is a 44 year-old man whose date of birth is [REDACTED]. The claimant is 5' 5" tall and weighs 127 pounds. The claimant has lost 20 pounds because he does not eat. The claimant completed the 10th grade of high school. The claimant was not Special Education. The claimant does not read and write nor do basic math. The claimant was last employed in 2006 as a drummer in a band. The claimant has also been employed as a mechanic at the medium level and a roofer at the heavy level.
7. The claimant's alleged impairments are degenerative disc disease, low back and knee pain, nerve damage in the feet and legs, depression, bilateral torn meniscus in the knees, and carpal tunnel syndrome.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the 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 (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

"Disability" is:

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

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

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

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

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled.

We will not consider your age, education, and work experience. 20 CFR 416.920(c).

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

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

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

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

...Medical reports should include --

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

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

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

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.
- (c) **Laboratory findings** are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;

- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

...When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work. 20 CFR 416.945(b).

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

“Disability” is:

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

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

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). At Step 1, the claimant is not engaged in substantial gainful activity and has not worked since 2006. Therefore, the claimant is not disqualified from receiving disability at Step 1.

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities means, the abilities and aptitudes necessary to do most jobs. Examples of these include:

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

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

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

On [REDACTED], the claimant’s treating physician submitted a Medical Examination Report, DHS-49, on behalf of the claimant. The claimant was first examined on [REDACTED] and last examined on [REDACTED]. The claimant had a history of impairment and chief complaint of chronic back pain, knee pain, carpal tunnel syndrome, and numbness. The claimant had a current diagnosis of chronic degenerative disc disease, depression, chronic degenerative joint disease in the knees, carpal tunnel syndrome, and neuropathy in the feet. The claimant had a normal physical examination except that the treating physician noted that the claimant was tired appearing and had an abnormal gait. In addition, musculoskeletally the claimant had decreased range of motion of the shoulder, positive Tinel’s and Phelan’s, decreased strength, decreased range of motion to the lumbar spine, painful palpation in the lower spine, knees and right ankle pain on range of motion. Mentally, the claimant had a flat affect. The treating physician’s clinical impression was the claimant was deteriorating with limitations that were expected to last more than 90 days. The claimant could occasionally lift less than 10 pounds, but never 10 pounds. The claimant could stand and/or walk less than 2 hours of an 8-hour workday and sit less than 6 hours of an 8-hour workday. The claimant could not use hands/arms or feet/legs for repetitive actions. The medical findings that support the above physical limitations were that the claimant had areas of pain, decreased strength, and decreased range of motion. The claimant was limited in reading and writing. The medical findings that support the above mental limitations were special classes and the claimant quit school in the 10th grade. He had difficulty with reading and writing, a flat affect, and a depressed outlook. The claimant could meet his needs in the home. (Department Exhibit 90-92)

On [REDACTED], the claimant had an independent medical examination from [REDACTED]. The independent medical consultant’s impression was symptoms in the feet suggesting polyneuropathy, lumbar pain, symptoms in the thighs suggesting meralgia paresthetica, bilateral knee pain, right ankle pain, neck pain, right shoulder issues, and bilateral carpal tunnel syndrome. The claimant has an unusually wide range of issues. If records can be found that document polyneuropathy affecting the feet, then I would be included to say that use of a cane is necessary. Likewise, perhaps work limits are needed. I would recommend correlating with medical records to verify objective abnormalities. The claimant had pain dysesthesias of the forefeet and toes. The claimant had a normal examination. The claimant’s hands were free of atrophy, swelling, and deformity. Fine and gross dexterity was intact and sensory was full. Tinel’s was positive bilaterally and he says he has been diagnosed with CTS and wears a splint. The shoulder range of motion was full although with some pain behaviors on the

right. The shoulder tone was good and muscle mass intact. The neck and back were somewhat tender. The claimant was able to walk on heels and toes, squat and recover, and perform adequate tandem gait. At the knees, he had a lot of guarding which prevented me from performing an adequate McMurray's test to assess for internal derangement. The independent medical consultant found crepitation but no swelling, deformity, or consistent tenderness. The claimant was tender at the right ankle at the medial malleolus, but he showed no swelling or deformity. The claimant was alert and oriented x3. He ambulated with a cane. He maintained adequate eye contact and did not exhibit overt sad or anxious behaviors. He did exhibit some symptom magnification. (Department Exhibit 4-10)

On [REDACTED], the claimant underwent a psychological evaluation with [REDACTED]. The independent medical consultant's clinical impression was that the claimant had depressive disorder NOS secondary to physical complaints. He had a GAF of 50. The potential for the claimant to become gainfully employed in a simple, unskilled work situation on a sustained and competitive basis was guarded pending medical resolution. The claimant is able to manage his benefit funds. The claimant has had chronic pain throughout his body for the past 10 years following an injury to both of his knees. He has pain daily and constantly in his neck, legs, feet, knees, hands, upper back, and tailbone. With the claimant's current physical distress, it will be very difficult for him to work in any kind of employment situation that involves walking, standing, stooping, lifting, or any kind of physical exertion. The claimant states that he has been depressed for the past year because of his ongoing pain and because he cannot do what he used to do. (Department Exhibit 11-15)

On [REDACTED], the independent medical consultant submitted a Mental Residual Functional Capacity Assessment. The claimant was only marked limited in sustained concentration and persistence in his ability to perform activities within a schedule, maintain regular attendance, and be punctual within customary tolerances. (Department Exhibit 16-17)

On [REDACTED], the claimant had an MRI of the cervical spine at [REDACTED]. The radiologist's clinical impression was mild spondylotic change, otherwise negative MRI of the cervical spine. (Department Exhibit 58)

On [REDACTED], the claimant had an x-ray of the cervical spine as a result of chronic neck pain by [REDACTED]. The radiologist's impression was a C5-6, moderate degenerative disc disease with no acute abnormality seen. (Department Exhibit 45)

At Step 2, the objective medical evidence in the record indicates that the claimant has established that he has a severe impairment. The claimant has degenerative disc disease with knee issues. He has some depression, but no significant marked limitations. The claimant does have chronic pain that would affect his ability to perform full-time employment. Therefore, the claimant is not disqualified from receiving disability

at Step 2. However, this Administrative Law Judge will proceed through the sequential evaluation process to determine disability because Step 2 is a *de minimus* standard.

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the claimant's medical record will not support a finding that claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). This Administrative Law Judge finds that the claimant's impairments do not rise to the level necessary to be listed as disabling by law. Therefore, the claimant is disqualified from receiving disability at Step 3.

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical and psychological findings that the claimant does have a driver's license and does drive with no problem. The claimant does not cook because it's hard to stand. The claimant grocery shops once a week, but does have a problem walking. The claimant does clean his own home by vacuuming. The claimant doesn't do any outside work. His hobby is watching TV. The claimant felt that his condition has worsened in the past year because his feet are numb and he has an increase in depression. The claimant stated he is in therapy and taking medication at Community Mental Health for his mental impairments.

The claimant wakes up at 10:00 a.m. He watches TV. He goes back to bed after taking medication because he's tired. He has trouble sleeping. He goes to bed at 11:00 p.m.

The claimant felt that he could walk 100-200 feet. The longest he felt he could stand was 15-20 minutes. The longest he felt he could sit was 15-20 minutes. The heaviest weight he felt could carry 10-0 pounds. The claimant's level of pain on a scale from 1 to 10 without medication is an 8/9 that decreases to a 5/6 with medication.

The claimant smokes a pack of cigarettes a day. He stopped drinking alcohol in 2009 where before he drank a six-pack every two weeks. The claimant does not or has ever taken illegal or illicit drugs. The claimant stated there was no work that he thought he could do.

This Administrative Law Judge finds that the claimant has established that he cannot perform any of his prior work. The claimant was previously employed as mechanic at the medium level and a roofer at the heavy level. The claimant has also been employed as a drummer in a band. The claimant has moderate back issues, carpal tunnel syndrome, and chronic pain where he will have a difficult time performing the roles and responsibilities of the aforementioned positions. Therefore, the claimant is not disqualified from receiving disability at Step 4. However, the Administrative Law Judge

will still proceed through the sequential evaluation process to determine whether or not the claimant has the residual functional capacity to perform some other less strenuous tasks than in his prior jobs.

In the fifth step of the sequential consideration of a disability claim, the trier of fact must determine if the claimant's impairment(s) prevents claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the claimant's:

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

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

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

...To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light

work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. 20 CFR 416.967(b).

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

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

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

In the instant case, the claimant stated that he has depression where he is in therapy and taking medication with [REDACTED]. The claimant did have moderate symptoms during his independent psychological evaluation on [REDACTED] where his medical problems were an issue to his mental health. As a result, there is sufficient medical evidence of a mental impairment that is so severe that it would prevent the claimant from working at any job because of his chronic pain as a result of his physical symptoms.

At Step 5, the claimant cannot meet the physical requirements of light work, based upon the claimant's physical abilities. Under the Medical-Vocational guidelines, a younger individual with a limited or less education, and an unskilled and skilled work history, who is limited to light work, is considered disabled. 20 CFR 404, Subpart P, Appendix 2, Rule 202.22. The Medical-Vocational guidelines are not strictly applied with non-exertional impairments such as depression. 20 CFR 404, Subpart P, Appendix 2, Section 200.00. Using the Medical-Vocational guidelines as a framework for making this decision and after giving full consideration to the claimant's physical and mental impairments, the Administrative Law Judge finds that the claimant cannot perform a wide range of simple, unskilled, light activities and that the claimant does meet the definition of disabled under the MA program. The claimant is eligible for MA-P retroactive to February 2010 to December 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the department has not appropriately established that it was acting in compliance with department policy when it denied the claimant's application for MA-P and retroactive MA-P. The claimant cannot perform any level of simple, unskilled, light work. The department has not established its case by a preponderance of the evidence.

Accordingly, the department's decision is **REVERSED**. The claimant is eligible for MA-P retroactive to February 2010 through December 2012.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 19, 2010

Date Mailed: November 22, 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.

CGF / vc

cc:

