

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-2066
Issue No: 2009; 4031
Case No: [REDACTED]
Hearing Date: January 5, 2012
County: Lenawee

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on January 5, 2012 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist).

ISSUE

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

FINDINGS OF FACT

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

1. On July 22, 2011, Claimant filed an application for Medical Assistance, Retro MA and State Disability Assistance benefits alleging disability.
2. On September 16, 2011, the Medical Review Team (MRT) denied Claimant's application.
3. On September 21, the Department caseworker sent Claimant notice that his application was denied.
4. On or about October 6, 2011, Claimant filed a request for a hearing to contest the Department's action.

5. On November 18, 2011, the State Hearing Review Team (SHRT) denied Claimant's application stating that his impairments do not meet/equal the intent or severity of a Social Security listing.
6. A telephone hearing was held on January 5, 2012. The Administrative Law Judge held the record open to allow for additional medical and psychiatric records to be submitted. Claimant agreed to a waiver of the time limits and the record was held open until April 4, 2012.
7. Additional medical and psychiatric records were received in February, March and April, 2012 and forwarded to the SHRT.
8. On May 2, 2012, the SHRT again denied Claimant's application because Claimant's impairments did not meet/equal the intent and severity of a Social Security listing.
9. In the instant matter, Claimant alleges disabling impairments due to bipolar disorder, depression, chronic back and ankle pain.
10. At the time of the hearing, Claimant was 50 (fifty) years old with a birth date of [REDACTED] stood 5'6"; and weighed approximately 200 (two hundred) pounds (lbs).
11. Claimant completed the 11th grade but later obtained his GED. Claimant's has an employment history in general labor as a maintenance worker and construction.

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 Program Reference Manual (PRM).

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

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA 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

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. Claimant's impairment must result from anatomical, physiological, or psychological abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only the claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

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). Statements about pain or other symptoms do not alone establish disability. 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. 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).

The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered.

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).

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 there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

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 or 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 or she is not disabled regardless of how severe his or her physical or mental impairments are and regardless of his or 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 or she is not disabled.

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). 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 limitations are 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. 20 CFR 416.920(a)(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)(4).

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). 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 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).

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 or 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 (fifteen) years or 15 (fifteen) 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 or 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 or her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he or she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he or she is disabled.

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. The terms are defined as follows:

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).

The analysis begins at Step 1. Here, Claimant is not engaged in substantial gainful activity and has not worked since 2010. Therefore, Claimant is not disqualified from receiving disability at Step 1.

At Step 2, Claimant's symptoms are evaluated to see there is an underlying medically determinable physical or mental impairment(s) that could reasonably be expected to produce the claimant's pain or other symptoms. This must be shown by medically acceptable clinical and laboratory diagnostic techniques. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of the claimant's symptoms to determine the extent to which they limit the 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.

In the present case, the claimant alleges disability due to bipolar disorder, depression, chronic back pain and ankle pain. The medical evidence in this record indicates that on

March 31, 2006, the claimant went on a drinking binge and overdosed on 10 Flexeril and 20 Trazadone. He was admitted to the intensive care unit where he was stabilized. At the time, the claimant stated he had forgotten to take his medications. The claimant reported that at times he would drink 3-4 times a week until he gets drunk or passes out. He reported having 7 drunk driving incidents at the time. The hospital resumed the claimant back on his medications. The claimant was discharged on April 4, 2006 with the following medications: Lexapro (20 mg), Zantac (150 mg), ferrous sulfate (324 mg), Trazadone (50 mg) and folic acid (1 mg).

On April 19, 2007, the claimant, who was 45 years old at the time, visited the ER after falling off his bike. The ER history note indicated the claimant on an at least three of four different psychotropic medications and has a history of chronic mental illness. He smells of alcohol." His CAT scans of his head were unremarkable. The ER doctor noted that he was not injured but that he should discontinue alcohol abuse. The claimant was admitted as he had a high risk of harm to himself and others. He was placed on an alcohol detox program. He had depression and suicidal ideation with were treated with medications. The claimant was discharged on April 25, 2007 with major depressive disorder and alcohol dependence.

The claimant visited the ER on July 3, 2007 for suicidal ideation. The claimant was not admitted but was provided with medications and follow up instructions to see his psychiatrist and primary care physician.

On July 10, 2007, the claimant returned to the ER for suicidal ideation. He was provided with the following medications and sent home: Aspirin (81 mg) once daily, Wellbutrin (150 mg) once daily, and Seroquel (100 mg) twice daily.

On June, 14, 2008, the claimant was involuntarily admitted for his first psychiatric hospitalization. He was admitted for suicidal thoughts. According to the psychiatric records, the claimant had been drinking "hard" from age 18 to age 47. He was diagnosed with bipolar disorder and alcohol dependence. These records indicated that claimant had a prior diagnosis of bipolar disorder and had a history of genetic propensity in grandparents, aunts and cousins. The claimant was started on Lithium which was eventually increased. He showed improvement with the Lithium course. He was also provided with Wellbutrin and Trazodone. The claimant was discharged in improved condition on June 25, 2008 with continued medications and follow up appointments.

On June 17, 2011, the claimant visited the emergency room complaining of back pain for the past three months. The claimant's lumbar spine CT revealed a "slight bulging disc at L4-L5" but otherwise the study was considered "unremarkable."

On August 18, 2011, the claimant had x-rays taken of his lumbar and cervical spine. The lumbar spine x-rays were negative but vascular calcification was noted. The cervical spine x-rays revealed degenerative changes.

On August 18, 2011, the claimant underwent an examination by an internal medicine physician for the Department's Disability Determination Services (DDS). The claimant reported back pain and left leg pain. The claimant reported having a right ankle fracture following surgery. The claimant also complained of depression. The report indicated that the claimant had chronic back pain with the possibility of disk disease and bipolar depression disorder.

The claimant had lumbar and cervical spine x-rays on August 23, 2011. The lumbar x-rays were negative. The cervical spine x-rays showed degenerative changes and "decreased cervical lordosis."

On August 30, 2011, the claimant had a psychiatric/psychological evaluation. Following the evaluation, the prognosis was fair to guarded. The report indicated the claimant "could benefit from mental health services to include evaluation for psychiatric medication and counseling or supportive psychotherapy to treat mood issues."

On December 16, 2011, the claimant had a mental health assessment. He reported that he was feeling much better. The claimant was taking Seroquel XR (200 mg) once daily and Wellbutrin SR (150 mg) twice daily. He indicated that his last alcohol intake was in July, 2011.

Claimant has presented medical evidence that demonstrates he has some physical and mental limitations on his ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination of impairments, that has more than a *de minimus* effect on his basic work activities. Further, the impairments have lasted continuously for 12 (twelve) months; therefore, Claimant is not disqualified from receiving MA-P benefits at Step 2.

If Claimant had not been denied at Step 2, the analysis would proceed to Step 3 where the medical evidence of Claimant's condition is compared to the listings. In light of the medical evidence, listings 1.04 (spine disorders), 12.04 (affective disorder), 12.06 (anxiety disorder), and 12.09 (substance abuse disorders) are considered. The medical evidence in this case shows that Claimant's August 18, 2011 lumbar x-rays showed degenerative changes and decreased cervical lordosis. He had vascular calcification on his lumbar spine. Claimant has been diagnosed with major depressive disorder and has a history of suicidal ideation. Ultimately, it is found that Claimant's impairments meet the intent and severity requirement of a listed impairment and, therefore, Claimant meets Step 3.

The analysis proceeds to Step 4 where the Administrative Law Judge determines Claimant's residual functional capacity to perform the requirements of his past relevant work. The evidence in this record reveals that Claimant is not able to do physical and mental work activities on a sustained basis despite limitations from his impairments. Taking into consideration all of Claimant's impairments, including the less severe impairments, Claimant is not able to do his past relevant work as a construction laborer, maintenance and assembly, which would be heavy in nature. Because the record

evidence shows that Claimant is unable to do his past relevant work, the analysis proceeds to the fifth and last step.

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 some other jobs. At Step 5, this Administrative Law Judge must determine whether or not Claimant has the residual functional capacity to perform some other jobs in the national economy. Here, Claimant, due to his impairments, is limited to unskilled work. Claimant has a GED. However, Claimant is capable of light and sedentary work. This Administrative Law Judge finds that the objective medical evidence on the record fails to show that Claimant has no residual functional capacity. Claimant is disqualified from receiving disability at Step 5 based upon the fact that he has not established by objective medical evidence that he cannot perform light and/or sedentary work even with his impairments.

Medical vocational guidelines have been developed and can be found in 20 CFR, Subpart P, Appendix 2, Section 200.00. When the facts coincide with a particular guideline, the guideline directs a conclusion as to disability. 20 CFR 416.969. Under the Medical-Vocational guidelines, an advanced age individual (Claimant is 50 years old), with a high school education or the equivalent (GED) and a semi-skilled work history who is capable of light work is not considered disabled pursuant to Vocational Rule 202.14.

Claimant's condition results in some limitations in his ability to perform work related activities. While Claimant is not capable of performing work he has done in the past, he is able to perform work that is less demanding. This Administrative Law Judge finds that Claimant's condition is not severe enough to prevent him from working.

Moreover, Claimant has not satisfied the burden of proof to show by competent, material and substantial evidence that he 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 objective clinical documentation submitted by Claimant is not sufficient to establish a finding that the claimant is disabled. There is no objective medical evidence to substantiate Claimant's assertion that his alleged impairments are severe enough to reach the criteria and definition of disability. Claimant is not disabled for the purposes of the Medical Assistance disability (MA-P) program.

The Federal Regulations at 20 CFR 404.1535 speak to the determination of whether Drug Addiction and Alcoholism (DAA) is material to a person's disability and when benefits will or will not be approved. The regulations require the disability analysis be completed prior to a determination of whether a person's drug and alcohol use is material. It is only when a person meets the disability criterion, as set forth in the regulations, that the issue of materiality becomes relevant. In such cases, the regulations require a sixth step to determine the materiality of DAA to a person's disability.

When the record contains evidence of DAA, a determination must be made whether or not the person would continue to be disabled if the individual stopped using drugs or alcohol. The trier of fact must determine what, if any, of the physical or mental limitations would remain if the person were to stop the use of the drugs or alcohol and whether any of these remaining limitations would be disabling.

Claimant's testimony and the information indicate that claimant has a history of alcohol abuse. Applicable law is the Drug Abuse and Alcohol (DA&A) Legislation, Public Law 104-121, Section 105(b)(1), 110 STAT. 853, 42 USC 423(d)(2)(C), 1382(c)(a)(3)(J) Supplement Five 1999. The law indicates that individuals are not eligible and/or are not disabled where drug addiction or alcoholism is a contributing factor material to the determination of disability. After a careful review of the credible and substantial evidence on the whole record, this Administrative Law Judge finds that Claimant does not meet the statutory disability definition under the authority of the DA&A Legislation because his alcohol abuse is material to his alleged impairment and alleged disability.

With regard to Claimant's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA program. In order to receive SDA, "a person must be disabled, caring for a disabled person or age 65 or older." BEM, Item 261, p. 1. Because Claimant does not meet the definition of disabled under the MA-P program and because the evidence of record does not show that Claimant is unable to work for a period exceeding 90 (ninety) days, Claimant is also not disabled for purposes of the SDA program.

The Department has established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance, Retro Medical Assistance and State Disability 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 acted in compliance with Department policy when it denied Claimant's application for Medical Assistance, Retroactive Medical Assistance and State Disability Assistance. Claimant should be able to perform a wide range of light or sedentary work even with his impairments. The Department has established its case by a preponderance of the evidence.

Accordingly, the Department's decision is AFFIRMED.

IT IS SO ORDERED.

/S/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/12/12

Date Mailed: 6/12/12

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.

CAP/ds

■ [REDACTED]