

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No. 201242403  
Issue No. 2009  
Case No. [REDACTED]  
Hearing Date: July 12, 2012  
Washtenaw County DHS (20)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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, an in-person hearing was held on July 12, 2012 from Ypsilanti, Michigan. The above named claimant appeared and testified; Robert Craig testified on behalf of Claimant. Steven Hosmer of [REDACTED] appeared as Claimant's authorized hearing representative. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, and [REDACTED], Specialist, appeared and testified.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) on the basis that Claimant is not a disabled individual.

**FINDINGS OF FACT**

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

1. On 5/17/11, Claimant applied for MA benefits (see Exhibits 2-20).
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 2/21/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 27-28).
4. On 3/13/12, DHS denied Claimant's application for MA benefits and mailed a notice (Exhibits 24-26) informing Claimant of the denial.

5. On 3/22/12, Claimant requested a hearing to dispute the denial of MA benefits.
6. On 5/16/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 121-122), by determining that Claimant can perform past relevant work.
7. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 5'10" and weight of 118 pounds.
8. Claimant is a tobacco and marijuana user with a history of alcohol abuse.
9. Claimant's highest education year completed was 12<sup>th</sup> grade.
10. As of the date of the administrative hearing, Claimant has no medical health coverage.
11. Claimant alleged that he is a disabled individual based on impairments and symptoms including: pancreatitis, ulcers and fatigue.

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

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 at 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies (see BEM 260 at 1-2):

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) 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 functionally identical definition of disability is found under DHS regulations. BEM 260 at 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of

disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2011 monthly income limit considered SGA for non-blind individuals is \$1,000.

In the present case, Claimant denied having any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1<sup>st</sup> Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity

requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1<sup>st</sup> Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the submitted medical documentation. Some documents were admitted as exhibits but were not necessarily relevant to the disability analysis; thus, there may be gaps in exhibits numbers.

A Social Summary (Exhibits 29-30) [REDACTED] was presented. A Social Summary is a standard DHS form which notes alleged impairments and various other items; a patient rep completed the submitted Social Summary. It was noted that Claimant alleged impairments of pancreatitis and aggravated hernia. It was noted that Claimant complained of being in constant pain, throwing up and fatigue.

A Medical Social Questionnaire (Exhibits 31-32 dated [REDACTED] was presented. The form allows for reporting of claimed impairments, treating physicians, previous hospitalizations, prescriptions, medical test history, education and work history; Claimant's form was completed by a patient representative. Hospitalizations from 5/2011, 2002 and 1999 were noted.

A Medical Examination Report (Exhibits 11-12) dated [REDACTED] was completed by a physician. It was noted that the physician first treated Claimant on [REDACTED] and last examined Claimant on [REDACTED]; these dates imply that the physician was not Claimant's ongoing physician. The physician provided diagnoses of chronic pancreatitis, gastrointestinal bleeding with anemia, chronic pain and candida esophagitis. Claimant's complaints included anorexia, fatigue and abnormal pain. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs.

Hospital records (Exhibits 40-42; duplicated 60-62; 63-65) from a [REDACTED] hospital admission were presented. It was noted that Claimant was discharged on [REDACTED]. It was noted that Claimant presented with general weakness, vomiting, severe nausea and dehydration. A physical examination report was not particularly notable. It was noted that Claimant smokes tobacco and marijuana and that Claimant drinks alcohol twice per week. An upper GI endoscopy showed hiatal hernia and gastric abnormality characterized by focal erythema.

Additional records (Exhibits 67-94) from the [REDACTED] hospitalization were submitted. It was noted that Claimant had pancreatitis for the last 6-10 years and that Claimant has not seen a physician in that time. It was noted that Claimant typically manages any episodes at home but that the most recent episode was worse than normal. It was noted that a review of all systems were negative other than the chronic pancreatitis and

symptoms. It was noted that Claimant had coffee-ground emesis. It was noted that Claimant's dehydration was severe (see Exhibit 72).

Hospital records (Exhibits 43-57) dated [REDACTED] 1 were presented. It was noted that Claimant had continued vomiting and that he has been unable to eat anything but ice chips. The vomiting was noted as being related to chronic pancreatitis.

Medical records (Exhibits 36-38) stemming from a [REDACTED] medical appointment were presented. The appointment appeared to be a follow-up appointment concerning chronic pancreatitis. It was noted that Claimant continued to smoke 2 packs per day. The physician noted that he discussed the importance of Claimant having a gastroenterologist following Claimant long-term and "definitely" short-term. It was noted that Claimant was positive for: weight loss, abdominal pain, change in appetite, melena, nausea, odynophagia, back pain, joint/bone symptoms and vomiting. A physical examination failed to result in notable findings. It was noted that Claimant's anemia counts were improving and would be rechecked later that week.

A letter (Exhibit 112) dated [REDACTED] from Claimant's hospital physician was presented. The physician noted Claimant had chronic abdominal pain requiring chronic narcotic pain medication and digestive enzyme supplementation. It was noted that Claimant had poor oral intake, chronic nausea, poor strength and poor stamina. It was noted that Claimant was hospitalized "on several occasions" since 5/2011 for increased abdominal pain, dehydration and weakness. It was noted that Claimant was abstinent from alcohol use.

A Psychiatric/Psychological Medical Report (Exhibits 113-116) dated [REDACTED] was presented. The report was completed by a licensed psychologist. The examiner provided a diagnosis based on Diagnostic and Statistical Manual of Mental Disorders (4<sup>th</sup> edition) (DSM IV). Axis I represents the acute symptoms that need treatment. Axis II is to note personality disorders and developmental disorders. Axis III is intended to note medical or neurological conditions that may influence a psychiatric problem. Axis IV identifies recent psychosocial stressors such as a death of a loved one, divorce or losing a job. Axis V identifies the patient's level of function on a scale of 0-100 in what is called a Global Assessment of Functioning (GAF) Scale. Axis I diagnoses were given of alcohol dependence in early full remission, cannabis abuse, and major depressive disorder. Claimant's pancreatitis was noted in Axis III. Claimant's GAF was noted as 55. A GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. A guarded prognosis was given. It was noted that Claimant was in need of treatments for substance abuse, medical and mental health.

Claimant completed an Activities of Daily Living (Exhibits 95-98) dated [REDACTED]; this is a questionnaire designed for clients to provide information about their abilities to perform various day-to-day activities. Claimant noted difficulty sleeping; Claimant noted waking

every 1.5-2 hours due to stomach pain and bowels. Claimant noted that he only eats what he can tolerate. Claimant noted an unspecified weight loss. Claimant noted he works around the house as much as his body allows. Claimant noted his daughter helps him shop. Claimant noted he drinks a couple of beers a couple of days per week.

Claimant noted that he was capable of performing all of his daily activities (bathing, grooming, cooking, cleaning and shopping). Claimant noted that each activity was subject to interruption due to pancreatitis symptoms such as nausea. Claimant noted that bending aggravates his pancreatitis and that he performs each activity with as little bending as possible.

Claimant testified that he has a two block walking limit before his abdomen hurts. Claimant stated that he has a one hour standing ability. Claimant testified that he has no issues with sitting. Claimant stated that he was capable of lifting a gallon of milk.

The evidence established that Claimant had multiple hospital encounters in 5/2011 due to symptoms of chronic pancreatitis. A physician statement noted multiple encounters since, though no records were presented to verify the statement. Claimant testified that he had a hospital encounter in 7/2011 due to the same issues but did not cite any other encounters.

Chronic pancreatitis is known to be a serious condition which is capable of affecting a person's energy, appetite and pain level. Generally, the medical evidence was supportive in finding that Claimant had fatigue and pain which would affect his ability to perform basic work activities. It was established that Claimant took Vicodin for his abdominal pain (see Exhibit 36) and that Claimant required ongoing narcotic medication (see Exhibit 112) for his abdominal pain. Claimant's documented weight loss was cited as well as a diagnosis of anorexia. All of these issues point to an impairment of fatigue which would affect Claimant's ability to perform all basic work activities.

Claimant's physician's statement was the most directly compelling evidence of Claimant's abilities. Claimant's poor strength and poor stamina cited by the physician would certainly affect Claimant's abilities to lift items and walk. Based on the presented evidence, it was established that Claimant has a significant impairment to performing basic work activities.

It was established that Claimant had chronic pancreatitis for at least 6 years. However, the pancreatitis did not appear to significantly affect Claimant until 5/2011; this will be considered the onset month for Claimant's alleged disability. Claimant's physician's letter (Exhibit 112) clarified that the prognosis for Claimant's prognosis was not optimistic. The physician noted that Claimant's issues were not recoverable because the damage was done. The physician specifically was pessimistic about Claimant's potential improvement in function. This evidence supports a finding that Claimant's impairments are expected to last 12 months or longer from an onset date of 5/2011.

As it was found that Claimant established significant impairment to basic work activities for a period longer than 12 months, it is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's primary impairment was from chronic pancreatitis and its symptoms. Chronic pancreatitis has no specific SSA listing. A SSA listing commonly applied to pancreatitis is Listing 5.08 which addresses weight loss concerning digestive orders. Disability can be established by:

**5.08 Weight loss due to any digestive disorder** despite continuing treatment as prescribed, with BMI of less than 17.50 calculated on at least two evaluations at least 60 days apart within a consecutive 6-month period.

Claimant testified that he has lost 30 pounds in the last year. The medical records occasionally referenced a weight loss by Claimant though the weight loss was not specified in pounds or over time. The record was also devoid of Claimant's BMI. There is insufficient evidence to find that Claimant meets Listing 5.08.

A listing for inflammatory bowel disease (Listing 5.06) was considered based on Claimant's digestive problems. Part B(1) addresses anemia. Part B(3) addresses a tender abdomen. Part B(5) addresses weight loss; other sections were not considered due to an utter lack of evidence. Each listing was rejected due to a failure to establish the medical requirements in medical evaluations at last 60 days apart.

A listing for affective disorder (Listing 12.04) was considered based on a diagnosis of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

A listing based on substance addiction disorder (Listing 12.09) was considered. This listing was rejected as Claimant failed to meet any of the sub-listings associated with substance abuse.

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It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant testified he worked full-time for approximately 8 months in 2010-11 as a property manager. Claimant stated that his duties varied and included several maintenance duties. Claimant also testified that he worked from 1998-2010 performing various repairman, maintenance and painting duties. Claimant stated that both of his previous relevant jobs involved standing, walking and lifting which he can no longer perform. Claimant stated he lost his property manager job because of his illness. Claimant's testimony was credible and consistent with the evidence. It is found that Claimant cannot perform his past relevant work and the disability analysis moves on to step five.

In the fifth step in the process, the individual's RFC in conjunction with his or her age, education, and work experience, are considered to determine whether the individual can engage in any other substantial gainful work which exists in the national economy. SSR 83-10. While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

To determine the physical demands (i.e. exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. The definitions for each are listed below.

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

Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b) Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.*

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

Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands are considered nonexertional. 20 CFR 416.969a(a). Examples of non-exertional limitations include difficulty functioning due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping, climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i)-(vi) If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2)

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case

situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Applying a de minimus standard, it was found in step two that Claimant's fatigue, pain and weakness were severe impairments to Claimant's performance of basic work activities. For purposes of this decision, it will be conceded that Claimant cannot perform any work beyond a sedentary exertional level. However, it is questionable whether Claimant could reasonably be expected to perform a sedentary level of employment.

Claimant stated that he was capable of lifting a gallon of milk (approximately 8.4 pounds). Claimant's concession tends to establish that Claimant is capable of the lifting requirements for sedentary employment. Claimant also conceded that he has no direct problems with sitting for extended periods. There was no particular evidence which pointed to potential difficulty for Claimant performing fine hand movements (e.g. writing, typing and telephone usage) which are often applicable with sedentary employment. All of this evidence supports that Claimant is capable of performing sedentary employment.

Though it can be concluded with certainty that Claimant has some restrictions to standing, lifting and walking, the degree of Claimant's restrictions are less certain. Generally, the medical evidence failed to verify specific restrictions to Claimant's abilities.

The most compelling evidence concerning Claimant's capabilities came from Claimant's treating physician. The physician noted that Claimant had poor oral intake, chronic nausea, poor strength and poor stamina. The physician also noted that he fully supported Claimant's application for permanent disability based on Claimant's level of function. The physician's opinion of disability is not binding but is persuasive evidence supporting a finding of disability.

Based on the presented evidence it is found that Claimant is not capable of performing even a sedentary level of employment due to the reoccurring nature of weakness and fatigue caused by pancreatitis and treating medications. The finding that Claimant is not capable of performing any exertional level of employment leads to a conclusion that Claimant is not capable of engaging in any other potential SGA and that Claimant is therefore a disabled individual. Accordingly, the DHS denial of MA benefits based on a determination that Claimant is not disabled is found to be improper.

### **DECISION AND ORDER**


The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated 5/17/11;

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- (2) upon reinstatement, evaluate Claimant's eligibility for MA benefits on the basis that Claimant is a disabled individual;
- (3) supplement Claimant for any benefits not received as a result of the improper denial; and
- (4) if Claimant is found eligible for future MA benefits, to schedule a review of benefits in one year from the date of this administrative decision.

The actions taken by DHS are REVERSED.

  
Christian Gardocki  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: July 25, 2012

Date Mailed: July 25, 2012

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

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cc:

