

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201274106  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: February 20, 2013  
County: Wayne DHS (15)

**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 following Claimant's request for a hearing. After due notice, an in-person hearing was held on February 20, 2013, from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

**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 10/23/09, Claimant applied for MA benefits.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 7/22/10, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).
4. On 11/19/10, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 12/13/10, Claimant requested a hearing disputing the denial of MA benefits.
6. No SHRT decision was made.
7. On 2/20/13, an administrative hearing was held.
8. Following the hearing, Claimant presented new medical documents (Exhibits A1-A69).
9. The new medical documents were forwarded to SHRT.
10. On 5/24/13, SHRT determined that Claimant was a disabled individual, effective 8/2012, but not a disabled individual, prior to 8/2012, in part, by application of Medical-Vocational Rule 201.00.
11. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 6'3" and weight of 260 pounds.
12. Claimant has no known relevant history of alcohol, tobacco or drug abuse.
13. Claimant's highest education year completed was the 12<sup>th</sup> grade.
14. As of the date of the administrative hearing, Claimant had no medical coverage.
15. Claimant alleged disability based on impairments and issues including: kidney dysfunction, high blood pressure (HBP), diabetes, heart disease, liver disease, swollen legs and feet, back pain and incontinence.

### **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).

Prior to a substantive analysis, it should be noted that Claimant's AHR's hearing request noted that Claimant special arrangements were required for Claimant to participate in the administrative hearing; specifically, an in-person hearing was requested. Claimant's request was granted.

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. The 2012 income limit is \$1010/month.

During the hearing, DHS presented verification of Claimant's employment history with his most recently known employer. Starting with 10/2009, it was verified that Claimant received more than \$1000 in gross income for all months through 4/2011 except for 11/2009 and 2/2011. It was also noted that Claimant had the following monthly incomes: \$710.48 in 5/2011, \$810.33 in 6/2011, \$578.80 in 7/2011, \$231.52 in 8/2011 and \$115.76 in 1/2012. It is found that Claimant is not disabled for the period of 10/2009-4/2011 based on earnings exceeding the presumptive SGA income limit.

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 relevant submitted medical documentation.

Hospital documents (Exhibits 9-20) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of a worsening shortness of breath over the previous three months. It was noted that Claimant's stopped taking medication due to a lack of insurance. It was noted that a chest x-ray revealed fluid overload. It was noted that Claimant had multiple lab abnormalities and HBP (208-167). It was noted that Claimant's ejection fraction was 20%. It was noted that a heart catheterization ruled out ischemia as a cause of cardiac problems. It was noted that Claimant's blood pressure decreased with treatment. It was noted that Claimant was discharged on [REDACTED] after renal function improved.

A Medical Examination Report (Exhibits 8-9; A1-A2) dated [REDACTED] was completed by Claimant's treating physician. It was noted that the physician first treated Claimant on [REDACTED] and last examined Claimant on [REDACTED]. The physician provided diagnoses of HTN, diabetes, and chronic renal insufficiency. An impression was given that Claimant's condition was deteriorating. It was noted that Claimant was limited to standing and walking less than 2 hours in an eight hour day. No sitting restrictions were noted. It was noted that Claimant was restricted from lifting 10 pounds or more. It was noted that Claimant also had congestive heart failure and uncontrolled HTN. It was noted that Claimant can meet household needs.

Physician progress notes (Exhibits A3-A5) dated [REDACTED] were presented. It was noted that Claimant's blood pressure remained high. It was noted that Claimant had uncontrolled HTN and diabetes.

Medical clinic documentation (Exhibit A60) dated [REDACTED] was presented. It was noted that [REDACTED] had a mild heart attack three weeks prior, resulting in a hospital encounter. It was noted that diabetes seemed well-controlled. Claimant was also given instructions based on indigestion complaints.

Medical clinic documentation (Exhibit A57) dated [REDACTED] was presented. It was noted that Claimant had difficulties with stress at home and at work. Noted diagnoses included: chronic kidney disease, HTN and DM. It was noted that Claimant was advised of lifestyle and diet modification.

Medical clinic documentation (Exhibit A56) dated [REDACTED] was presented. It was noted that Claimant's blood pressure was 250/140 in the left arm and 240/156 in the right arm. It was noted that Claimant should go to the emergency room.

Hospital documents (Exhibits A6-A49) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of shortness of breath, high blood pressure, blurry vision, a two-day throbbing headache, vomiting and a 30 day long problem with gastric pain. It was noted that Claimant's emergency room BP measured as high as 267/153. It was noted that Claimant was discharged on [REDACTED]. It was noted that discharge diagnoses included malignant HTN, chronic kidney disease and diabetes. It was noted that Claimant had Stage 4 kidney disease. It was noted that Claimant's lab results verified abnormal liver function.

Medical clinic documents (Exhibits A54-A55) dated [REDACTED] were presented. It was noted that Claimant's HTN was still not controlled despite medication treatment.

Hospital documents (Exhibits A62-A73) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of dyspnea over the prior two weeks. It was noted that Claimant's blood pressure was markedly elevated. A discharge date of [REDACTED] was noted. Discharge diagnoses included: non-ischemic cardiomyopathy, acute kidney injury, chronic kidney disease (stage 4), sleep apnea electrolyte imbalance and DM (type 2).

Following the SHRT decision and step one analysis the only MA benefit period left in dispute is from 5/2011-7/2012. The remaining analysis will only address Claimant's circumstances from that time period.

As of 5/2011, Claimant was hospitalized (over a year ago) due to cardiac problems related to blood pressure. It was also established that as of 2/2011, Claimant's blood pressure and diabetes were uncontrolled. Claimant testified credibly that his physical problems affected his ability to work, which was consistent with his employment income

history. Based on the presented evidence, it is probable that Claimant's uncontrolled blood pressure and diabetes caused fatigue and ambulation difficulties.

There were large gaps in Claimant's medical treatment which raises questions as to whether Claimant has a 12 month period of impairments. The most compelling evidence was Claimant's failure to return to full-time employment after 4/2011 and any employment after 8/2011. This is strongly suggestive that Claimant had basic work restrictions due to HTN and DM which lasted over the period from 5/2011-7/2012.

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 most prominent impairment appears to be uncontrolled blood pressure causing Claimant cardiac problems. SSA does not have a listing for hypertension but cardiac diseases are covered by Listings 4.00. The most applicable listing is for chronic heart failure, which reads:

**4.02 Chronic heart failure** while on a regimen of prescribed treatment, with symptoms and signs described in 4.00D2. The required level of severity for this impairment is met when the requirements in *both A and B* are satisfied.

**A.** Medically documented presence of one of the following:

1. Systolic failure (see 4.00D1a(i)), with left ventricular end diastolic dimensions greater than 6.0 cm or ejection fraction of 30 percent or less during a period of stability (not during an episode of acute heart failure); or
2. Diastolic failure (see 4.00D1a(ii)), with left ventricular posterior wall plus septal thickness totaling 2.5 cm or greater on imaging, with an enlarged left atrium greater than or equal to 4.5 cm, with normal or elevated ejection fraction during a period of stability (not during an episode of acute heart failure);

AND

**B.** Resulting in one of the following:

1. Persistent symptoms of heart failure which very seriously limit the ability to independently initiate, sustain, or complete activities of daily living in an individual for whom an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that the performance of an exercise test would present a significant risk to the individual; or

2. Three or more separate episodes of acute congestive heart failure within a consecutive 12-month period (see 4.00A3e), with evidence of fluid retention (see 4.00D2b (ii)) from clinical and imaging assessments at the time of the episodes, requiring acute extended physician intervention such as hospitalization or emergency room treatment for 12 hours or more, separated by periods of stabilization (see 4.00D4c); or
3. Inability to perform on an exercise tolerance test at a workload equivalent to 5 METs or less due to:
  - a. Dyspnea, fatigue, palpitations, or chest discomfort; or
  - b. Three or more consecutive premature ventricular contractions (ventricular tachycardia), or increasing frequency of ventricular ectopy with at least 6 premature ventricular contractions per minute; or
  - c. Decrease of 10 mm Hg or more in systolic pressure below the baseline systolic blood pressure or the preceding systolic pressure measured during exercise (see 4.00D4d) due to left ventricular dysfunction, despite an increase in workload; or
  - d. Signs attributable to inadequate cerebral perfusion, such as ataxic gait or mental confusion.

Claimant's EF fell to 20% in 2009, during a period of instability. Presumably, Claimant's EF improved because he returned to employment shortly after his hospitalization. There was no evidence of medical testing which would justify a finding of disability based on the above criteria. It is found that Claimant does not meet the listing for chronic heart failure.

A listing for kidney disease (Listing 6.02) was considered based on medical documents verifying that Claimant had stage 4 renal disease. This listing was rejected due to a failure to establish: related neuropathy, persistent anorexia, persistent elevation of serum creatinine, renal osteodystrophy or any other listing requirement.

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's only past relevant employment was as a driver for hospital patients. Claimant testified that he performed the job for 14 years. Claimant stated that his primary duty was chauffeuring patients. Claimant testified that his duties also required him to lift patients from their wheelchairs and into a vehicle. Claimant testified that his fatigue and shortness of breath prevented him from performing his employment. Claimant's testimony was consistent with the medical evidence. It is found that Claimant was unable to perform past employment as of 5/2011; accordingly, the disability analysis may proceed 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). For purposes of this decision, only a consideration of sedentary employment will be considered.

In step two, it was found that the medical evidence and Claimant's inability to perform his past employment established work restrictions. The finding was reiterated in step four based on Claimant's shortness of breath and lifting restrictions. These work restrictions would not necessarily prevent the performance of a sedentary type of employment.

Uncontrolled diabetes and hypertension would have reasonably prevented Claimant from lifting patients, whom could weigh hundreds of pounds. It is less reasonable to presume lifting restrictions of 10 pounds or less.

Similarly, Claimant's shortness of breath would have likely precluded any employment requiring significant amount of walking and/or standing. A shortness of breath symptom is not likely to restrict Claimant's abilities to perform employment requiring mostly sitting. Based on the time period of 5/2011-6/2012, it is found that Claimant was capable of performing sedentary employment.

Beginning in 8/2012, Claimant's symptoms were shown to worsen. Aside from blood pressure so high that it required hospitalization, it was noted that Claimant had suffered 30 days of gastric pain requiring vomiting. It was at this point that Claimant could not perform even a sedentary level of employment. As of 7/2012, the gastric pain, combined with uncontrolled blood pressure and DM made sedentary employment impossible.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school) and employment history (semi-skilled but not transferrable), Medical-Vocational Rule 201.21 is found to apply. This rule dictates a finding that Claimant is not disabled for the time period of 5/2011-6/2012. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of MA benefits for the period of 5/2011-6/2012. Based on the finding that Claimant was incapable of even sedentary employment beginning 7/2012, it is found that Claimant was a disabled individual beginning 7/2012.

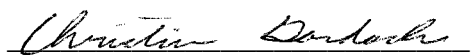
### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant to be not disabled for the time period of 10/2009-6/2012. The actions taken by DHS are PARTIALLY AFFIRMED.

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 starting the benefit month of 7/2012. It is ordered that DHS:

- (1) determine Claimant's MA benefit eligibility starting with benefit month 7/2012, on the basis that Claimant is a disabled individual;
- (2) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (3) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future MA benefits.

The actions taken by DHS are PARTIALLY REVERSED.

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

Date Signed: 6/25/2013

Date Mailed: 6/25/2013

**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.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CG/hw

cc:

