

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20135683
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: February 7, 2013
County: Wayne DHS (18)

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 7, 2013, from Taylor, Michigan. Participants included the above-named claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. [REDACTED] and [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

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 7/19/12, Claimant applied for MA benefits, including retroactive MA benefits from 6/2012.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 9/10/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).
4. On 9/12/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 46-48) informing Claimant of the denial.

5. On 10/11/12, Claimant requested a hearing disputing (see Exhibits 49-51) the denial of MA benefits.
6. On 12/7/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 61-62), in part, by application of Medical-Vocational Rule 202.17.
7. On 12/7/12, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.17.
8. On 2/7/13, an administrative hearing was held.
9. During the hearing, Claimant presented new medical evidence (Exhibits A1-A119).
10. Following the administrative hearing, and following an Interim Order, DHS presented new medical evidence (Exhibits B1-B4).
11. The new medical documents were forwarded to SHRT.
12. On 5/28/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.17.
13. As of the date of the administrative hearing, Claimant was a [REDACTED] year old male with a height of 5'11" and weight of 214 pounds.
14. Claimant has a history of tobacco abuse and no known relevant history of alcohol or illegal substance abuse.
15. Claimant's highest education year completed was the 9th grade.
16. As of the date of the administrative hearing, Claimant had no medical coverage.
17. Claimant alleged disability based on impairments and issues including: chronic obstructive pulmonary disease (COPD), emphysema, blood circulation problems, high blood pressure, degenerative disc disease, sleep apnea, knee problems and learning disabilities.

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 of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. The request noted that 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.

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 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th 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 (1st 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 (1st 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 17-28; A16-A17; A29-A37; A73; A105-A106) from a hospital admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of shortness of breath and chest tightness triggered by low-level physical activities. It was noted that Claimant had a history of tobacco and pain medication abuse. It was noted that a 2008 catheterization revealed mild-moderate artery disease. It was noted that Claimant's ejection fraction in 2011 was 64%. It was noted that testing revealed Claimant's EF to be normal at 55%. It was noted that Claimant had 70% stenosis of a left coronary artery. It was noted that Claimant underwent cardiac catheterization. A diagnosis of unstable angina was noted. It was noted that CABGx3 surgery was performed. It was noted that Claimant was discharged on [REDACTED].

A cardiovascular physician letter (Exhibit 16) dated [REDACTED] was presented. It was noted that Claimant was slowly recovering with no further episodes of palpitations though he Claimant reported left-side discomfort from the prior day.

Hospital documents (Exhibits 35-41; A88-A95) dated [REDACTED] were presented. The documents noted that Claimant presented with complaints of shortness of breath and chest pains. It was noted that Claimant's left middle finger showed near amputation.

The documents implied that Claimant's complaints led to a hospital admission on [REDACTED].

Documents (Exhibits 14-15; 29-34; A48-A58; A79-A80) from a hospital admission dated [REDACTED] were presented. It was noted that Claimant's pulse in the ER varied from the low 40s up to 240 beats per minute. It was noted that an angiogram verified moderate left pleural effusion. It was noted that reported palpitations were related to a recent surgery and that they should decrease over time. It was noted that Claimant was doing better after receiving nitroglycerin. It was noted that Claimant was discharged on [REDACTED]. Final diagnoses included: acute bradycardia, CAD, left pleural effusion, anxiety and chest pain.

A cardiovascular physician letter (Exhibit 13) dated [REDACTED] was presented. It was noted that the physician examined Claimant as a "follow-up" appointment. It was noted that Claimant stopped smoking. It was noted that Claimant was doing well but had occasional episodes of dizziness and light-headedness. It was noted that Claimant's blood pressure was 100/62, a little low for systolic blood pressure. It was noted that Claimant had no leg edema. It was noted that stress testing verified no myocardial ischemia.

Hospital documents (Exhibits A38-A47; A74-A78; A107-A108) dated [REDACTED] were presented. It was noted that Claimant underwent a 3-vessel bypass approximately 2 months ago and that he became very demanding of narcotic pain medications. It was noted that there was a long area of stenosis along the right side of the heart; it was noted that a tap was attempted but the procedure had to be stopped. It was noted that Claimant was discharged on [REDACTED].

Hospital documents (Exhibits 58-61; A59-A60; A81-A84) from a hospital admission dated [REDACTED] It was noted that Claimant underwent a stress test which was negative for ischemia, chest pain and arrhythmias. Claimant's EF was noted as normal at 63%.

A radiology report (Exhibit A6) of Claimant's heart dated [REDACTED] was presented. An impression of no perfusion defects and an EF of 63% was noted.

Cardiology consultation documents (Exhibits A13-A14) dated [REDACTED] from a physician presented. It was noted that Claimant reported chest discomfort.

Hospital documents (Exhibits A61-A67; A85-A87) stemming from an admission dated [REDACTED] were presented. It was noted that Claimant complained of chest pain. A radiology report of x-rays of Claimant's chest noted no acute process. Discharge diagnoses included: bilateral pleural effusion, kidney stones, gastrointestinal bleeding, unstable angina and chest pain. It was noted that Claimant was discharged on [REDACTED].

Cardiology consultation documents (Exhibits A9-A12; A18-A20; A96-A100) dated [REDACTED] from a nurse practitioner were presented. It was noted that Claimant reported

left-side chest pain and palpitation while feeling stressed. Claimant was noted as a former smoker. It was noted that Claimant's medications were adjusted.

Physician documents (Exhibits 54-59) dated [REDACTED] were presented. It was noted that Claimant appeared for a three month check-up following CABG surgery. It was noted that Claimant continued to smoke 11-20 cigarettes per day. It was noted that Holter monitoring revealed normal sinus rhythm. It was noted that Claimant complained of reoccurring bouts of dyspnea. It was noted that Claimant had no leg edema. It was noted that Claimant's EF was 55%-60%. It was noted that radiology revealed: mild mitral regurgitation and that left atrium was mildly to moderately dilated. Significant improvement was noted. All heart structures were noted as appearing normal.

A Medical Examination Report (Exhibits 52-53) 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: CABG, COPD, CAD, sleep apnea, asthma and hypertension. An impression was given that Claimant's condition was stable. It was noted that Claimant requires assistance with performing household needs.

Treatment documents (Exhibits A21-A28; A68-A72) related to an encounter dated [REDACTED] were presented. It was noted that Claimant reported a left-side radiating pain. It was noted that Claimant was previously independent in performing activities of daily living. An impression of trapezius strain versus C-3 pain from coronary process was noted. It was noted that Claimant would require further testing if pain persisted. It was noted that physical therapy was recommended.

Treatment documents (Exhibits A100-A104) related to an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of left side chest pain, first felt while Claimant was resting. It was noted that Claimant refused to undergo stress testing and that cardiac enzymes were found to be at normal levels. It was noted that further review would be required for assessment. It was noted that imaging verified findings consistent with emphysema.

Intelligence test results (Exhibits B2-B4) were presented, per interim order. It was noted that Claimant was tested on [REDACTED]. It was noted that Claimant underwent a WRAT III. It was noted that Claimant put forth a best effort. It was noted that Claimant's reading was at a 3rd grade level, spelled at a 1st grade level and performed math at a 3rd grade level. Psychological test results were also presented. It was noted that an Axis I diagnosis of learning disability was presented. It was noted that Claimant's GAF was 55. It was noted that Claimant's prognosis was guarded. It was noted that Claimant might need help managing his funds. It was noted that Claimant could perform and understand simple two or three-step directions.

Claimant's cardiac problems were established as early as 7/2012. Multiple hospitalizations and treatment appointments were established. Though the medical records established improvement to Claimant's heart function, there was evidence of

ongoing shortness of breath difficulties related to pleural effusion and stenosis of the arteries. The shortness of breath would presumably impair Claimant's ability to perform lifting and ambulation. Claimant established significant impairment to performing basic work activities.

It was established that Claimant had access to treatment and medication but still had ongoing dyspnea. The evidence established a probable impairment that has and/or will last 12 months or longer.

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 cardiac dysfunction. Cardiac impairments are covered by Listings 4.00. Of note was Claimant's refusal to undergo stress testing. Stress testing that was performed revealed no notable findings. The medical evidence failed to establish any cardiac dysfunction rising to the level of any of the cardiac listings.

A listing for mental retardation (Listing 12.05) was also considered based on presented cognitive testing. Listing 12.05 determines disability based on intelligence quotient levels. The presented testing only addressed literacy, spelling and mathematic grade levels. Without full scale IQ testing or verification that Claimant cannot function independently, Claimant cannot meet the listing for mental retardation.

Claimant complained of back pain which is covered by Listing 1.04 which covers spinal disorders. No medical evidence was presented to support a consideration of the listing.

A listing for sleep-related breathing disorders (Listing 3.10) was also considered based on references in the records to sleep apnea. This listing was rejected due to a lack of evidence of Claimant's artery pressure and/or a diagnosis of arterial hypoxemia.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's knee complaints. This listing was summarily rejected due to any evidence of knee problems.

A listing for chronic pulmonary insufficiency (Listing 3.02) was considered based on Claimant's breathing difficulties. This listing was rejected due to any evidence of respiratory testing.

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 that he perform past employment in construction work. Claimant testified that his duties included climbing ladders, replacing windows and installing vinyl siding. Claimant testified that his shortness of breath and edema prevent him from performing any further employment. Though edema was not verified as an ongoing problem, shortness of breath was. Claimant's shortness of breath would reasonably preclude Claimant from performing construction work. It is found that Claimant cannot perform past relevant employment.

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). The evaluation will begin with an analysis of Claimant's ability to perform light employment.

It was not all good for Claimant after bypass surgery. Notable problems included: mild mitral regurgitation, bilateral pleural effusion, mild to moderate left atrium dilation and

left side pain (noted as possibly relating to cardiac problems). These problems are suggestive of restricting Claimant from performing light employment.

Post-bypass surgery, Claimant's ejection fraction varied between 55%-63%; levels known to be consistent with strong cardiac functioning. Claimant also performed a stress test following surgery but with no notable results. There were also no further hospitalizations after the first two months when disability was claimed. Radiology was generally very supportive that Claimant's heart function was strong. There was also evidence tending to indicate that Claimant was smoking at a time when he claimed to have quit. Perhaps of most concern was Claimant's refusal to take a stress test; no explanation was given to explain the refusal. This evidence is very consistent with an ability to perform light employment.

It was very tempting to find that Claimant could not perform light employment. Ultimately, the most persuasive evidence in determining that Claimant could not came from his treating physician. As of [REDACTED] the physician noted that Claimant required help meeting his household needs. The treating physician's opinion was given over four months after heart surgery, a time when many surgery patients could have fully recovered. After factoring the requirements of light employment (extensive walking and standing and lifting 20 pounds with frequent lifting of 10 pounds), the treating physician's statement appears consistent with the presented medical evidence. It is found that Claimant is incapable of performing light employment. For purposes of this decision, it will be found that Claimant can perform sedentary employment.

Literacy testing verified that Claimant's literacy level was the equivalent to a third grader. A third grade reading level is sufficient to establish illiteracy.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (illiterate), employment history (unskilled), Medical-Vocational Rule 201.17 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found Claimant to be not disabled for purposes of MA benefits.


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 7/19/12, including retroactive MA benefits back to 6/2012;
- (2) evaluate Claimant's eligibility for MA benefits on the basis that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial; and

(4) 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 REVERSED.


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

Date Signed: 6/21/2013

Date Mailed: 6/21/2013

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:

