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

IN THE MATTER OF:

[redacted]

Reg. No.: 2012-69381
Issue No.: 2009
Case No.: [redacted]
Hearing Date: August 5, 2013
County: Oakland (02)

HEARING ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on August 5, 2013, from Madison Heights, Michigan. Participants included the above-named Claimant. [redacted] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [redacted], Specialist.

It should be noted that the administrative judge who heard the case was not available to write the hearing decision. The hearing decision was randomly reassigned to be written by the administrative judge named at the bottom of this decision.

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 [redacted]/12, Claimant applied for MA benefits, including retroactive MA benefits from [redacted]/2011.

2. Claimant's only basis for MA benefits was as a disabled individual.

3. On [redacted]/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 27-28).

4. On [redacted]/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 43-47) informing Claimant of the denial.

5. On [redacted]/12, Claimant's AHR requested a hearing disputing the denial of MA benefits.

6. On [redacted]/12, SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant can perform past relevant employment as a consultant.

7. On [redacted]13, an administrative hearing was held.

8. Claimant presented new medical documents (Exhibits A1-A65) at the hearing.

9. On [redacted]/13, an updated hearing packet was forwarded to SHRT.

10. On [redacted]/13, SHRT determined that Claimant was not disabled, in part, by determining that Claimant can perform past relevant employment as a consultant.

11. On [redacted]/13 the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.

12. As of the date of the administrative hearing, Claimant was a [redacted]-year-old male with a height of 6'5 ½ '' and weight of 230 pounds.

13. Claimant has no known relevant history of alcohol or illegal substance abuse.

14. Claimant's highest education year completed was a Bachelor of Arts with a major in sociology and minor in psychology.

15. As of the date of the administrative hearing, Claimant was a Medicaid recipient since [redacted]/2012.

16. Claimant alleged disability based on impairments and issues including COPD, high blood pressure (HBP), hypertension (HTN), cardiac disease including congestive heart failure (CHF), atrial fibrillation (A-fib) and foot swelling.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to

1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

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 (10/2010), p. 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:

- 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).
  BEM 260 (7/2012) pp. 1-2

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 (7/2012), p. 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 CRF 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 2012 monthly income limit considered SGA for non-blind individuals is $1,010.

Claimant denied performing 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 F2d 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.

A chiropractor letter (Exhibit A65) dated [redacted]/06 was presented. The chiropractor noted that radiography of Claimant's spine revealed severe degeneration of Claimant's cervical, thoracic and lumbar spine. Supporting radiography documents were not presented.

Hospital documents (Exhibits A10-A19) from an encounter dated [redacted]/11 were presented. It was noted that Claimant presented with complaints of body pain and aches, ongoing for two weeks. Noted diagnoses included alcohol abuse, alcohol withdrawal and depression.

A hospital discharge summary (Exhibits 37-39) from an admission dated [redacted]/12 was presented. It was noted that Claimant presented with complaints of chest pain. It was noted that Claimant drank heavily since the passing of his niece. It was noted that Claimant's medications were adjusted and that Claimant was discharged on [redacted]/12 in stable condition. Seven discharge diagnoses included chest pain, chronic A-fib, uncontrolled HTN, COPD and alcohol abuse.

Hospital documents (Exhibits A27-A30) from an encounter dated [redacted]/12 were presented. It was noted that Claimant presented with decreased hearing in the right ear

and vocal cord dysfunction. It was noted that Claimant should take Albuterol but that he ran out of medication. It was noted that Claimant was given medication and discharged in stable condition.

Hospital documents (Exhibits A1-A9) from an admission dated [redacted]/12 were presented. It was noted that Claimant presented with complaints of dyspnea, yellow sputum, light-headedness and high blood pressure, ongoing for two days. It was noted that Claimant received medication adjustments during his stay and that his condition improved. It was noted that Claimant had 16 discharge medications. Discharge diagnoses included acute exacerbation of COPD, uncontrolled HTN, CHF, coagulopathy, atrial fibrillation, osteoarthritis and sleep apnea. A discharge date of [redacted]/12 was noted.

Hospital documents (Exhibits A24-A26) dated [redacted]/12 were presented. It was noted that Claimant presented with complaints of a cough. An impression of asthma was noted. It was noted that Claimant ran out of inhaler medication. It was noted that Claimant's condition improved and that he was discharged in stable condition; a hospital course of action was not noted. It was noted that Claimant was given a prescription for Albuterol upon discharge.

A physician letter (Exhibit A64) dated [redacted]/12 was presented. It was noted that the physician treated Claimant for CHF, asthma, dyspnea, A-Fib and degenerative disc disease. It was noted that Claimant required breathing treatments every six hours. It was noted that discontinuation of utility service could greatly aggravate Claimant's medical conditions.

Hospital documents (Exhibits A20-A23) dated [redacted]/13 were presented. It was noted that Claimant presented with SOB and has vocal cord problems. It was noted that Claimant smelled of alcohol but that he initially denied drinking. It was noted that Claimant was subsequently shaking and conceded he had an alcohol problem. It was noted that Claimant was not compliant with taking prescribed medications.

Hospital documents (Exhibits A31-A35) from an admission dated [redacted]/13 were presented. It was noted that Claimant presented with SOB. It was noted that Claimant suffered ventricular fibrillation during the hospitalization; it was noted that an AICD pacer was implanted. Discharge diagnoses included acute CHF, cardiac arrest secondary to ventricular fibrillation, atrial fibrillation, cardiomyopathy, HTN, anemia and alcohol abuse. It was noted that Claimant was prescribed several medications upon discharge on [redacted]/13.

Hospital documents (Exhibits A36-A43) dated [redacted]/13 were presented. It was noted that Claimant presented with complaints of shoulder pain and a cyst on his neck. It was noted that Claimant reported that he fell a couple of months ago onto his right shoulder. It was noted that Claimant did not want the abscess drained. It was noted that views of Claimant's right shoulder were taken and an impression of a sebaceous cyst was noted. It was noted that Claimant received medication and his pain subsided.

Hospital documents (Exhibits A50-A59) dated [redacted]/13 (at a later time from the above-cited documents) were presented. It was noted that Claimant arrived via ambulance with complaints of SOB. It was noted that Claimant smelled of alcohol. It was noted that Claimant reported running out of breathing medication. It was noted that Claimant was given a breathing treatment and felt better.

Hospital documents (Exhibits A44-A49) dated [redacted]/13 were presented. It was noted that Claimant presented with a complaint that his pacemaker sounded “like a fax machine”. It was noted that a representative (presumably from the pacemaker company) indicated that the pacemaker sounds were normal. It was noted that Claimant was examined and pronounced okay to be discharged.

A Discharge Summary (Exhibits A62-A63) dated [redacted]/13 was presented. It was noted that Claimant presented with complaints of atypical chest pain and coughing up blood. A history of alcohol dependence was noted. It was noted that Claimant’s chest pain dissipated following proton-pump inhibitor therapy. It was noted that Claimant was discharged on [redacted]/13 in stable condition. Discharge instructions included a low sodium and low cholesterol diet and exercise. It was noted that Claimant had a history of noncompliance and multiple comorbid conditions which made future hospitalizations likely.

A Discharge Summary (Exhibits A60-A61) dated [redacted]/13 was presented. It was noted that Claimant presented with an inability to walk because of severe groin and right-side hip pains. It was noted that the pain started after Claimant fell out of bed. It was noted that Claimant received antibiotics for a questionable infiltrate on a chest x-ray. It was noted that Claimant’s leg pain persisted at discharge. Discharge diagnoses included severe right hip pain and COPD among others. A fair prognosis was noted.

During the hearing, it was established that Claimant received Medicaid since [redacted]/2012. Claimant seeks a disability determination beginning [redacted]/2011. The below analysis will examine whether Claimant was disabled over the period of [redacted]/2011-[redacted]/2012.

A six-year-old chiropractor letter was not persuasive evidence of disability as of [redacted]/2011. Claimant did not testify to complaints of back pain. Medical documents did not reference degenerative disease as a diagnosis. Six years between a date of diagnosis and a claim of disability is too extensive to justify a finding of disability when more recent evidence is not presented.

Hospital records from [redacted]/2011 were also not persuasive in establishing disability. Three diagnoses were provided, the first two cited Claimant’s alcohol abuse. A diagnosis for depression was not persuasive evidence of disability due to any supporting evidence of depression other than the diagnosis.

Claimant testified that he lives in a nursing home for physical rehabilitation. Claimant testified that he uses a walker to ambulate and that he was unable to stand without a

walker. Claimant's stated restrictions were not verified by presented medical documents; however, presented documentation verified lesser restrictions for Claimant.

In [redacted]/2012, Claimant established some relevant medical problems that were unrelated to alcohol abuse. Thus, [redacted]/2012 will be recognized as the first month for which Claimant is eligible for disability. It is found that Claimant was not disabled for the period of [redacted]/2011-[redacted]/2012.

Documents from [redacted]/2012 and subsequent months verified diagnoses and treatment for chronic A-fib, COPD and uncontrolled HTN. The diagnosis and treatment were consistent with Claimant's chronic complaints of SOB and chest pain. SOB and chest pain are consistent with a degree of ambulation and lifting restrictions.

The treatment records also verified that Claimant received regular treatment for chest pain and SOB for at least the following 12 months. It is found that Claimant established the durational requirements for a severe impairment.

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 alleged disability based on several problems. Listings for chronic pulmonary insufficiency (Listing 3.02), chronic heart failure (Listing 4.02) and depression (Listing 12.04) were considered. Each listing was rejected due to a lack of supporting evidence.

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 his past employment was primarily as a public relation consultant. Claimant testified that he provided training in fatherhood programs. Claimant testified that his last consultant job only lasted four weeks before poor health stopped further employment. Claimant testified that his job involved mostly standing.

SHRT determined that Claimant could perform his previous employment. Based on Claimant's explanation of his job requirements and the brevity of Claimant's last job, it is found that Claimant's past employment had standing and requirements that he can no longer perform. Accordingly, the 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).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform medium employment. For purposes of this decision, an evaluation of light employment will be undertaken. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Claimant testified that he could neither sit nor stand for six hours within an 8-hour shift. Claimant stated his physician restricted him to 15 pounds of lifting. Claimant's stated restrictions are consistent with an inability to perform sedentary or light employment.

Claimant had five hospital encounters over [redacted]/2012-[redacted]/2012, each involving chest pain and/or SOB symptoms. The diagnoses of COPD, uncontrolled HTN and chronic A-fib are also consistent with dyspnea which would likely restrict Claimant to 15 pounds of

lifting and standing less than 6 hours in an eight hours shift. Over the period of 2/2012-10/2012, it is found that Claimant was restricted to performing sedentary employment.

Multiple hospital documents cited Claimant's alcohol abuse. The materiality of alcohol abuse was not strongly considered because Claimant's primary diagnoses and symptoms are unrelated to alcohol abuse.

Claimant's medication non-compliance was also cited by medical documents. A consideration of non-compliance was not strongly considered because of Claimant's lack of insurance and lack of funds for the period of [redacted]/2012-[redacted]/2012. Not being able to afford required medication is an appropriate reason for not following prescribed treatment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (more than high school with no direct entry into skilled employment), employment history (skilled but not transferrable), Medical-Vocational Rule 202.06 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 properly denied Claimant's MA benefit application for the period of [redacted]/2011-[redacted]/2012 based on a determination that Claimant is not disabled. 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. It is ordered that DHS perform the following actions:

(1) reinstate Claimant's MA benefit application dated [redacted]/12, including retroactive MA benefits from [redacted]/2012;
(2) evaluate Claimant's eligibility for MA benefits subject to the finding that Claimant is a disabled individual beginning [redacted]/2012;
(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 **PARTIALLY REVERSED**.

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

Date Signed: 12/17/2013

Date Mailed: 12/17/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc: [redacted]