

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-34524
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 24, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 June 24, 2013, from Taylor, 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 the 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 [REDACTED]/[REDACTED]/12, Claimant applied for MA benefits, including retroactive MA benefits from [REDACTED]/2012.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED]/[REDACTED]/13, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).

4. On [REDACTED]/13, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 49-54) informing Claimant and the AHR of the denial.
5. On [REDACTED]/13, Claimant's AHR requested a hearing disputing the denial of MA benefits (see Exhibit 52).
6. On [REDACTED]/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 203.22 (see Exhibit 65).
7. On [REDACTED]/13, an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A20) at the hearing.
9. During the hearing, Claimant waived his rights to receive a timely hearing decision to allow the submission of new documents so that they SHRT may reconsider the claim of disability.
10. During the hearing, Claimant and DHS waived any objections to allow the admission of any additional medical documents considered and forwarded by SHRT.
11. On [REDACTED]/13, an Interim Order Extending the Record was mailed to Claimant and his AHR allowing 60 days from the date of hearing to submit a consultative examination report and various treatment records.
12. On [REDACTED]/13, Claimant submitted additional documents (Exhibits B1, C1-C6).
13. On [REDACTED]/13, an updated hearing packet was forwarded to SHRT.
14. SHRT also considered additional medical documents (Exhibits D1-D6).
15. On [REDACTED]/13, SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 203.22.
16. On [REDACTED]/13 the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision (Exhibits D7-D8).
17. As of the date of the administrative hearing, Claimant was a [REDACTED]-year-old male with a height of 5'10" and weight of 270 pounds.
18. Claimant has no known relevant history of tobacco, alcohol or illegal substance abuse.
19. Claimant's highest education year completed was the 12th grade and Claimant has additional vocational training in air conditioning and refrigeration repair.

20. As of the date of the administrative hearing, Claimant was an Adult Medical Program recipient since approximately [REDACTED]/2013.
21. Claimant alleged disability based on impairments and issues including diverticulitis, vertigo, left arm and shoulder swelling, tailbone pain, swollen knees and concentration difficulties.

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 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 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 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 impairment amounts to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the relevant submitted medical documentation.

A physician letter (Exhibits A1- A3) dated [REDACTED]/09 was presented. It was noted that Claimant presented with a complaint of abdominal pain. It was noted that Claimant reported eight attacks and 4-5 hospitalizations from diverticulitis. A history of irritable bowel syndrome was noted. Noted impressions included recurring diverticulitis bouts, hernia, hemorrhoids and rectal bleeding. Recommendations included upper and lower endoscopy, consider elective sigmoid resection, consider repair of hernia and others.

Treating physician documents (Exhibits 41 -42) dated [REDACTED]/11 were presented. It was noted that Claimant presented with complaints of anxiety. It was noted that Claimant's father recently died and that Claimant fought regularly with his brother. An assessment of depression was noted. It was noted that Claimant was given Trazodone.

Treating physician documents (Exhibits 43- 44) dated [REDACTED]/12 were presented. It was noted that Claimant presented with a complaint of diverticulitis flare-up. It was also noted that Claimant requested an increase of Trazodone. It was noted that Claimant's increase should be gradual.

Treating physician documents (Exhibits 45- 47) dated [REDACTED]/12 were presented. It was noted that Claimant presented with complaints of anxiety, anger and depression. It was also noted that Claimant complained of black stools. It was noted that Claimant had an unspecified amount of colonoscopies in the prior three years and each was negative. Abdomen tenderness in the lower quadrant was noted. It was noted that Claimant was prescribed 500 mg Vicodins, to be taken three times daily.

Hospital documents (Exhibits 14-23; 29- 40) from an admission dated [REDACTED]/12 were presented. It was noted that Claimant presented with a complaint of rectal bleeding and abdominal pain. It was noted that Claimant had a long history of diverticulitis. It was noted that a CT of the abdomen verified diverticulosis of the colon without evidence of diverticulitis. Recommendation of a clear liquid diet were noted. It was noted that Claimant may need a colonoscopy. Discharge diagnoses included hypertension, diverticulosis and anemia due to blood loss with hemorrhoids. It was noted that Claimant was discharged on [REDACTED]/12.

Treating physician documents (Exhibits 48 -49) dated [REDACTED]/12 were presented. It was noted that Claimant attended the appointment for continuing care for diverticulosis. It was noted that Claimant declined a rectal examination but that BPH (benign prostatic hyperplasia) was the most likely diagnosis. It was noted that Claimant's lack of insurance made it difficult for Claimant to get required testing.

Hospital documents (Exhibits A49-A17) dated [REDACTED]/13 were presented. It was noted that Claimant presented with complaints of left arm and left shoulder pain. Radiology of the left arm was performed and an impression of no evidence of deep vein thrombosis or occlusion was noted. Radiology of the left shoulder was performed and an impression of a normal examination was noted.

Treatment medical documents (Exhibits A7-A8) dated [REDACTED]/13 were presented. It was noted that Claimant's presented for a follow-up on left shoulder pain and for forms to be completed. A list of seven noted medications included the following Seroquel, Trazodone and Norco.

A consultative mental status examination report (Exhibits D1-D 6) dated [REDACTED]/13 was presented. It was noted that Claimant drove himself to the appointment. It was noted that Claimant performed light housekeeping, errands, simple cooking and yard work.

Noted Axis I diagnoses included the following: depression, anxiety disorder and alcohol dependence (in remission). Claimant's GAF was 62. It was noted that Claimant has the ability to comprehend simple directions and to perform repetitive routine tasks. It was also noted there was no difficulty in Claimant's performance of complex tasks.

Hospital documents (Exhibits A4-A6; A18-A20) from an encounter dated [REDACTED]/13 were presented. It was noted that Claimant presented with a recurring complaint of left shoulder pain. The shoulder was noted as tender. A diagnosis of arthralgia was noted. Prescriptions for Ibuprofen and Oxycodone were noted.

Various urology treatment documents (Exhibits C1, C3-C6) dated [REDACTED]/13 or [REDACTED]/13 were presented. A letter (Exhibit C2) dated [REDACTED]/13 from a treating urologist noted that Claimant has a history of urinary retention and outlet obstructive symptoms. It was noted that since being placed on medication that Claimant was doing better, it was noted that a urinalysis was unremarkable and pathology revealed left inguinal hernia. A follow-up with a surgeon was recommended.

A letter dated [REDACTED]/13 from a licensed social worker (Exhibit B1) was presented. It was noted that Claimant completed a bio-psycho-social assessment. A diagnosis of major depressive disorder, recurrent, severe with psychotic features was noted.

Claimant alleged disability, in part, based on shoulder pain. The records verified that radiology was performed and no abnormalities were found. Though tenderness was noted in a physical examination, tenderness, by itself, is insufficient to establish a basis for disability. Claimant failed to establish disability based on left shoulder and/or arm pain.

Claimant alleged disability, in part, based on psychological problems. The presented medical evidence was underwhelming. Diagnoses of depression were verified by a consultative examiner and a recently obtained evaluation. There was no evidence that Claimant attended ongoing treatment. Impairments can be implied from Claimant's GAF, assuming that the GAF noted on [REDACTED]/13 was representative of Claimant's typical mental state. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 61-70 is representative of a person with "some mild symptoms OR some difficulty in social, occupational, or school functioning, but generally functioning pretty well, has some meaningful interpersonal relationships." For purposes of this decision, it will be found that Claimant has mild psychological impairments. The impairments were not specified by a physician, but based on Claimant's testimony, it is likely that Claimant has concentration impairments due to pain.

Claimant also established impairments related to abdominal pain, noted by medical records to be likely caused by BPH. Hospital records attributed the pain to diverticulosis though a history of diverticulitis was noted. It is perhaps not coincidental that treatment records for BPH and diverticulosis were not presented for a time that Claimant obtained a limited form of health insurance. Claimant began receiving AM P benefits in [REDACTED]/2013;

Claimant failed to present treatment records for BPH since [REDACTED]/2013. It is concerning that a physician noted that BPH treatment was inhibited by Claimant's inability to obtain medical testing due to lack of health coverage. Had evidence been presented that Claimant requires surgery, a claim of disability would have been more persuasive. Nevertheless, Claimant established some problems with abdominal pain that lasted 12 months or longer.

Claimant presented records from [REDACTED]/2013, noting treatment for urinary problems. The records also established that the urinary problem resolved with medication. It is found that Claimant failed to establish the durational requirements for urinary problems.

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 abdominal pain caused by diverticulosis and/or BPH. There was evidence of one hospitalization involving gastrointestinal (GI) bleeding. A SSA listing for gastrointestinal bleeding reads:

5.02 Gastrointestinal hemorrhaging from any cause, requiring blood transfusion (with or without hospitalization) of at least 2 units of blood per transfusion, and occurring at least three times during a consecutive 6-month period. The transfusions must be at least 30 days apart within the 6-month period. Consider under a disability for 1 year following the last documented transfusion; thereafter, evaluate the residual

Claimant failed to establish three incidents of GI bleeding or that any resulted in a blood transfusion. Claimant fails to meet the listing for 5.02. Other digestive-related listings were considered and summarily rejected due to a lack of evidence.

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

A listing for anxiety-related disorders (Listing 12.06) was considered based on Claimant's complaints of anxiety. This listing was rejected due to a failure to establish

marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant had a complete inability to function outside of the home.

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 has previous employment as a driver. Claimant testified that his driving jobs also required at least 50 pounds of lifting that he can no longer perform. Claimant's testimony was consistent with the presented evidence. It is found that Claimant cannot perform past relevant employment and 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 document 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 light employment. 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 is restricted to walking 2-3 blocks before his knee swells and further walking is prevented. Claimant presented no medical documentation verifying knee problems.

Claimant established chronic digestive-related impairments. Based on presented records, the need for medical intervention appears to be rare enough to not significantly affect Claimant's ability to maintain employment. A diagnosis of diverticulosis (as opposed to diverticulitis) is suggestive of a less painful and less restrictive impairment. Claimant's mild psychological impairments are also not deemed to be serious enough to significantly restrict Claimant's employment opportunities. It is found that Claimant is capable of performing light employment.

Based on Claimant's exertional work level (light), age (approaching advanced age), education (high school), employment history (unskilled), Medical-Vocational Rule 201.13 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly 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 dated 12/20/12, including retroactive MA benefits from 10/2012, based on a determination that Claimant is not disabled. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 11/20/2013

Date Mailed: 11/20/2013

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:

