

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-42870
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: [REDACTED] 9, 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 September 9, 2013, from Taylor, 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.

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 1[REDACTED]/12, Claimant applied for MA benefits, including retroactive MA benefits from 1[REDACTED]/2012.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 1[REDACTED]/13, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).

4. On [REDACTED]/13, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 180-181) informing Claimant of the denial.
5. On [REDACTED]/13, Claimant's AHR requested a hearing disputing the denial of MA benefits.
6. On [REDACTED]/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 204.00.
7. On [REDACTED]/13, an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A170) at the hearing.
9. During the hearing, Claimant waived rights of timeliness for completion of a hearing decision to allow the admittance of documents and reevaluation of disability by SHRT.
10. On [REDACTED]/13, an updated hearing packet was forwarded to SHRT.
11. On [REDACTED]/13, SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 202.20.
12. On 1 [REDACTED]/13 the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
13. As of the date of the administrative hearing, Claimant was a [REDACTED]-year-old female with a height of 5'3" and weight of 125 pounds.
14. Claimant has a relevant history of alcohol and is an ongoing tobacco smoker.
15. Claimant's highest education year completed was the 12th grade.
16. As of the date of the administrative hearing, Claimant had no health insurance coverage.
17. Claimant alleged disability based on impairments and issues back problems, post-traumatic syndrome (PTSD), poor memory, lacerated spleen and pancreatitis.

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 impairments amount to a severe impairment, all other relevant evidence may be considered.

Claimant alleged disability, in part, based on physical problems. The analysis will begin with Claimant's documents related to physical problems.

A radiology report (Exhibits 167; A159) dated [REDACTED]/11 was presented. It was noted that a CT of Claimant's cervical spine was performed. Disc osteophyte complexes were noted at C4-C5 and C5-C6.

Hospital documents (Exhibits 117-165; A111-A157) from an admission dated [REDACTED]/11 were presented. It was noted that Claimant presented with intractable back pain with radiculopathy, parestesias, weakness and profound standing and ambulatory intolerance. It was noted that Claimant underwent L4-S1 transforaminal lumbar interbody fusion, laminectomy and decompression. It was noted that Claimant was discharged on [REDACTED]/11 in stable condition.

A document (Exhibit 10) from an orthopedic specialist dated 1[REDACTED]/11 was presented. It was noted that Claimant presented for a six month follow-up to lumbar spine decompression and fusion . It was noted that Claimant reported paresthesias of the left buttock but denied lower back soreness. It was noted that Claimant reported dramatic improvement.

Hospital documents (Exhibits 19-26; A7-A9; A166-A170) from an admission dated [REDACTED]/12 were presented. It was noted that Claimant presented with abdominal pain after falling off her bicycle. It was noted that a CT scan was performed and showed fluid

adjacent to the spleen, most likely a hematoma. A diagnosis of splenic hematoma was noted. It was noted that Claimant was stable and discharged on [REDACTED]/12 but that observation should continue after discharge.

Documents (Exhibit 4-5; A162-A163) from an orthopedic specialist dated [REDACTED]/12 were presented. It was noted that Claimant reported significant overall improvement from pre-operative symptoms. It was noted that Claimant reported intermittent paresthesias of the left buttock and left foot. It was noted that Claimant's symptoms were sporadic and intermittent. It was noted that Claimant continued to smoke. It was noted that Claimant reported being too symptomatic in order to return to work.

Orthopedic specialist documents (Exhibits 160-161) dated [REDACTED]/13 were presented. It was noted that Claimant lost 23 pounds, attributed by Claimant to exercise and stress. It was noted that Claimant reported ongoing lower back pain, radiating down to her left leg and foot. Paresthiasis of the left foot was also noted as reported by Claimant.

Documents (Exhibit A5-A6; A101-A102; A110) dated [REDACTED]/13 from an orthopedic specialist were presented. It was noted that Claimant reported ongoing activity-related lower back discomfort. It was noted that Neurontin was previously prescribed but made no difference to relief of symptoms. It was noted that Claimant had 5/5 strength in lower extremities. It was noted that an MRI was performed and revealed early facet hypertrophy. It was noted that there was peripheralization of the nerve roots and epidural fibrosis. It was noted that further surgeries were discussed.

Pain management center documents (Exhibits A98-A100; A104-A106) dated [REDACTED]/13 was presented. It was noted that Claimant underwent a left L4 and L5 transforaminal nerve root block. It was noted that Claimant tolerated the procedure well and remained stable until discharged home.

A Medical Examination Report (Exhibits A1-A2; A107-A109) dated [REDACTED]/13 from Claimant's treating physician was presented. It was noted that the treating physician had a three-year history with Claimant and had a specialty in pain management. The physician provided diagnoses of various lumbar-related problems. It was noted that Claimant's condition was stable. It was noted that Claimant could lift up to 10 pounds but never 20 pounds or more. It was noted that Claimant could stand or walk less than 2 hours per day and sit less than 6 hours per day. It was noted that Claimant could meet household needs.

A Medical Examination Report (Exhibits A3-A4) dated [REDACTED]/13 from Claimant's treating physician was presented. The physician noted a 5-year history with Claimant and was noted to be an orthopedic specialist. The physician noted a diagnoses of low back pain and decompression. It was noted that Claimant could occasionally lift less than 10 pounds but never 10 pounds or more. It was noted that Claimant could not perform repetitive actions of simple grasping, pulling, fine manipulating or reaching. It was noted that Claimant could not operate repetitive foot controls.

Claimant alleged disability, in part, based on psychological impairments. Claimant also presented documents concerning these impairments.

Various psychiatric treatment documents (Exhibits 27-108; A13-A97) from 2011 and 2012 were presented. On [REDACTED]/11, it was noted that Claimant had a history of suicidal ideation but was no longer suicidal (see Exhibit 81). It was also noted on [REDACTED]/11 that Claimant was stable on medication and that she no longer wanted therapy (see Exhibit 81).

A psychiatric treatment document (Exhibit 62) dated [REDACTED]/12 was presented. Claimant's treating psychiatrist diagnosed Claimant with depression and PTSD. Claimant's GAF was noted to be 53.

A Comprehensive Assessment (Exhibits 37-50; A24-A37) dated [REDACTED]/12 from a treating mental health facility was presented. The assessment was completed by a licensed social worker. It was noted that Claimant reported ongoing depression, anxiety and panic attacks, worsened by recent family deaths and economic obstacles including an eviction. Claimant reported mood swings, crying spells and isolation. A distant history (15 years ago) of substance abuse was noted. It was noted that Claimant reported victimization from a rape, possibly relating to ongoing depression symptoms. A diagnosis of bipolar disorder was noted. Claimant's GAF was 48.

A Psychiatric Progress Note (Exhibits A10-A11) dated [REDACTED]/13 was presented. It was noted that Claimant was prescribed Lamictal and Zoloft.

A Mental Residual Functional Capacity Assessment (Exhibits 164-165) dated [REDACTED]/13 was presented. The form was completed by Claimant's treating psychiatrist. This form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. A therapist or physician rates the patient's ability to perform each of the 20 abilities as either "not significantly limited", "moderately limited", "markedly limited" or "no evidence of limitation". Claimant was noted as moderately limited in 13 abilities and markedly limited in none.

The presented evidence verified that Claimant had severe back restrictions and pain until undergoing back fusion surgery in 2011. The presented records tended to verify that Claimant's pain diminished significantly following the surgery though there were still ongoing problems. Records verified ongoing complaints by Claimant of lower back radiculopathy going down Claimant's left leg causing tingling and/or numbness. Multiple treating sources verified ambulation and lifting restrictions for Claimant since at least 9/2012, the first month where disability benefits are sought. The evidence established that Claimant's back problems have lasted and will continue to last for 12 months.

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 back pain. Spinal problems are covered by Listing 1.04, which states that's disability is established by the following:

1.04 Disorders of the spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With:

A. Evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine);

OR

B. Spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours;

OR

C. Lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively, as defined in 1.00B2b.

There was no evidence of motor loss, sensory loss, arachnoiditis or that Claimant is unable to walk effectively (as defined by SSA). Accordingly, Claimant does not meet the listing for 1.04.

Listings for the following were also considered: anxiety disorder (Listing 12.06), depression (12.04) and joint dysfunction (1.02). The evidence failed to establish that Claimant meets any of the aforementioned listings.

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 she performed past relevant work as a grocery store stockperson. Claimant testified that her job required substantial walking and lifting which she can no longer perform. Claimant's testimony was consistent with medical evidence.

Claimant testified that she was an assistant manager for a shoe store. Claimant testified that her job required lifting up to 50 pounds, which she can no longer perform. Claimant's testimony was consistent with medical evidence.

Claimant also testified that she worked a relatively sedentary job in an office. Claimant testified that her job required long periods of sitting and memorization, which she can no longer perform. Claimant's testimony is debatably consistent with the medical evidence. Claimant's treating psychiatrist noted that Claimant was moderately limited in making simple work-related decisions, working in coordination with others, maintaining attention and concentration for extended periods and other concentration-related work abilities (see Exhibit 164). A treating orthopedic specialist noted that Claimant is unable to sit six hours in an 8 hour day.

Based on the presented evidence, it is found that Claimant cannot perform past relevant employment. Accordingly, the disability analysis may proceed to step five.

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

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

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

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

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

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

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

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

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's

circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform sedentary employment. For sedentary employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

The most compelling evidence of Claimant's ability to perform sedentary employment came from Claimant's treating orthopedic physician. Based on presented records, the physician appeared to be the person with the most knowledge of Claimant's exertional capabilities.

Claimant's treating orthopedic specialist noted that Claimant could not lift 10 pounds or more. The physician also noted an inability to perform repetitive arm and foot operations. These restrictions are consistent with an inability to perform any type of employment.

The orthopedic specialist inexplicably ignored options to address Claimant's ability to sit or stand; Claimant's treating pain management physician addressed Claimant's ability to walk and sit. The pain management physician limited Claimant to the most restrictive options offered on the form, sitting less than 6 hours and walking or standing less than 6 hours. These findings are consistent with an inability to perform any employment.

Claimant's verified psychological restrictions were not marked restrictions but multiple concentration and social restrictions to several work abilities increase the difficulty for Claimant to performing employment.

Claimant's work restrictions are so severe that it is improbable that Claimant can perform any type of employment. DHS failed to present any vocational evidence of employment that Claimant can perform despite her restrictions.

Based on the presented evidence, it is found that Claimant is unable to perform any employment. Claimant is found to be a disabled individual. Accordingly, it is found that DHS erred in determining Claimant to not be disabled.

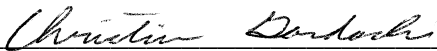
DECISION AND ORDER

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 [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;
- (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: 11/27/2013

Date Mailed: 11/27/2013

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:

