

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-44774  
Issue No.: 2009; 4009  
Case No.: [REDACTED]  
Hearing Date: October 2, 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 October 2, 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], Medical Contact Worker.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) and State Disability Assistance (SDA) for the reason 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]/13, Claimant applied for SDA and MA benefits.
2. Claimant's only basis for SDA and MA benefits was as a disabled individual.
3. On [REDACTED]/13, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 4-5).

4. On [REDACTED]/13, DHS denied Claimant's application for SDA and MA benefits and mailed a Notice of Case Action informing Claimant of the denial.
5. On [REDACTED]/13, Claimant requested a hearing disputing the denial of SDA and MA benefits.
6. On [REDACTED]/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.14.
7. On [REDACTED]/13, an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A76) at the hearing.
9. During the hearing, Claimant waived the right to receive a timely hearing decision.
10. During the hearing, Claimant and DHS waived any objections to allow the admission of the yet to be written SHRT decision and any additional medical documents considered and forwarded by SHRT.
11. On [REDACTED]/13, an updated hearing packet was forwarded to SHRT.
12. On [REDACTED]/13, SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 202.13.
13. On [REDACTED]/13 the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
14. As of the date of the administrative hearing, Claimant was a 53-year-old male with a height of 5'6" and weight of 140 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant's highest education year completed was the 12<sup>th</sup> grade.
17. As of the date of the administrative hearing, Claimant was an Adult Medical Program recipient since approximate 4/2013.
18. Claimant alleged disability based on impairments and issues including chronic obstructive pulmonary disorder (COPD) and back and left hip osteoporosis.

### **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).

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 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1<sup>st</sup> Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1<sup>st</sup> Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with the relevant submitted medical documentation.

Hospital documents (Exhibits 47, A1-A45) from an admission dated [REDACTED]/12 were presented. The hospital noted that Claimant presented with a complaint of dyspnea, chills, fever and coughing. The hospital noted that Claimant was treated with medication and that his breathing slowly improved. The hospital noted that a chest tube was inserted to drain fluid. The hospital noted discharge diagnoses of respiratory failure due to pneumonia, pleural effusion due to pneumonia, lung masses, cigarette dependency and alcohol dependency. The hospital noted that Claimant was discharged on [REDACTED]/12.

A consultative examination report (Exhibits 11-17) dated [REDACTED]/13 was presented. The consultative physician noted that Claimant had a history of smoking one pack per day for 37 years. The consultative examiner noted that Claimant reported mild shortness of breath (SOB) while at rest and severe SOB with exertion. The consultative examiner noted that Claimant takes Symbicort daily, but not Albuterol due to a lack of finances. The consultative examiner noted that Claimant reported a 10-pound lifting restriction and a 10-minute standing restriction due to SOB. The consultative examiner diagnosed Claimant with COPD with emphysema and a history of lung nodule. The examiner performed respiratory testing on Claimant. Claimant's best forced vital capacity (FVC) testing after using a bronchodilator was 3.1. Claimant's best forced expiratory volume at one second (FEV1) after using a bronchodilator was 2.2.

A Medical Examination Report (Exhibits 18-20) dated [REDACTED]/13 was presented. A treating physician with an approximate 6-month history with Claimant completed the report. The physician noted that Claimant reported SOB and fatigue. Diagnoses of COPD, emphysema and chronic SOB were noted. The physician noted that Claimant's

condition was stable. The physician opined that Claimant was limited to lifting of less than 10 pounds and never 10 pounds or more. The physician noted that Claimant was capable of sitting less than 6 hours per 8-hour day. The physician noted that Claimant was restricted to standing or walking less than 2 hours per 8-hour day. The physician noted that he observed Claimant being short of breath while walking. The physician noted that Claimant could meet his household needs.

A hospital document (Exhibit 46) dated [REDACTED]/12 was presented. The hospital noted that a CT of Claimant's thorax was performed. The hospital noted that there was marked improvement of previously described bilateral opacities of the lungs.

Treating physician documents (Exhibits 20-42) were presented. The documents verified regularly attended appointments for Claimant from 7/2012 through 1/2013. On [REDACTED]/12, Claimant's physician diagnosed Claimant with bacterial pneumonia. On [REDACTED]/12, the physician noted that Claimant reported exacerbated dyspnea with the colder weather. On [REDACTED]/13, Claimant's physician noted that Claimant reported losing breath with the slightest of physical activity (e.g. vacuuming or walking). The documents regularly noted that Claimant experiences coughing, shortness of breath and wheezing. The documents regularly noted that Claimant continues to smoke.

A Medical Source Statement of Ability to Do Work-Related Activities (Exhibits A46-A52) dated [REDACTED]/13 was completed by a treating physician. The physician noted that Claimant could occasionally lift or carry up to 10 pounds, but never more. The physician noted that Claimant was capable of performing the following in an 8-hour workday: sitting for 2 hours, standing for 2 hours and walking for 1 hour. The physician noted that Claimant reported severe back pain. The physician noted that Claimant could occasionally climb stairs and ramps but never climb ladders, crouch, or crawl. The physician noted that Claimant could use public transportation, shop, prepare a simple meal and care for his own personal hygiene.

A Pulmonary Residual Functional Capacity Questionnaire (Exhibits A53-A57) dated 8/9/13 was presented. The form was completed by Claimant's treating physician. The treating physician noted diagnoses for COPD and severe back pain. The physician noted that Claimant's SOB was partially caused by lung scarring after pneumonia. The physician noted that Claimant was not a malingerer. The physician noted that Claimant could sit or walk 2 hours each within an 8-hour day. Claimant's physician noted that Claimant could lift up to 10 pounds.

A Clinical Assessment of Pain (Exhibit A58) dated [REDACTED]/13 was presented. The assessment was completed by Claimant's treating physician. The physician noted that Claimant had pain which was distracting to adequate performance of daily activities. Claimant's physician noted that physical activity greatly increased pain to such a degree as to cause distraction or abandonment from task. Claimant's physician noted that prescribed medication causes Claimant severe distraction so as to limit Claimant's effectiveness.

Treating physician documents (Exhibits A59-A73) were presented. The documents ranged from 1/2013 through 8/2013. The documents verify that Claimant attended monthly appointments with his physician for treatment of dyspnea. Some of the documents noted Claimant's complaints of a radiating lower back pain. The documents regularly noted that Claimant experiences coughing, shortness of breath and wheezing. Claimant's physician noted a diagnosis for lumbago.

A radiology report (Exhibit A74) dated [REDACTED]/13 was presented. The report noted that views were taken of Claimant's lumbar. An impression of mild arthritis and osteoarthritis throughout the entire lumbar was noted.

A treating physician letter (Exhibit A59) dated [REDACTED]/13 was presented. Claimant's physician noted repeated previous diagnoses and repeated Claimant restrictions including lifting of 10 pounds, walking "any distance" without SOB and limited energy. The physician noted that Claimant's conditions were permanent. The physician noted that Claimant should have a follow-up CT of the lungs to insure no malignancy.

Claimant alleged disability, in part, based on shortness of breath. Statements from Claimant's treating physician verified a start date for symptoms (7/2012), diagnosis (COPD), explanation (lung scarring related to pneumonia) restrictions (10 pounds lifting and a maximum of two hours standing in 8 hour workday). The physician statements were consistent with the medical evidence. The physician also noted that Claimant's condition was permanent. It is found that Claimant established significant impairments to performing basic work activities since 7/2012.

As it was found that Claimant established significant impairment to basic work activities for a period longer than 12 months, it is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's most prominent impairment appears to be respiratory problems related to COPD. Chronic pulmonary insufficiency is covered by Listing 3.03, which determines disability based on respiratory testing results and height of the disability applicant. Claimant testified that he was 66 inches tall. Documentation listed Claimant's height as 65 inches (see Exhibit 18). In either case, Claimant's respiratory function was superior to levels needed to meet the listing for pulmonary insufficiency.

A listing for spinal disorders (Listing 1.04) was considered based on complaints of back pain. The listing was summarily rejected due to a failure to establish nerve root compression, arachnoiditis, stenosis or an inability to ambulate effectively.

A listing for joint problems (Listing 1.02) was considered based on Claimant complaints of hip pain. The listing was rejected due to Claimant's failure to establish an inability to ambulate effectively.

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 worked from 2004-2012 in a tire warehouse. Claimant testified that his duties required him to lift and climb ladders and carry weights of up to 250 pounds. Claimant testified that he can no longer perform the lifting or climbing necessary to perform this employment.

Claimant testified that he used to perform work requiring him to build counters and cabinets. Claimant testified that this employment required routine lifting of 45-50 pounds, which he can no longer perform.

Claimant's testimony that he cannot perform his past employment was credible and consistent with the medical evidence. It is found that Claimant cannot perform past 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 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 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. Light employment also requires lifting up to 20 pounds.

Claimant's treating physician determined Claimant's lifting was restricted to 10 pounds or less. The lifting restriction is consistent with a finding that Claimant cannot perform light employment.

Claimant's treating physician determined Claimant's had a 10-minute standing restriction. The standing restriction is consistent with a finding that Claimant cannot perform light employment.

The restrictions stated by Claimant's physician were consistent with the medical evidence. It is found that Claimant is limited to performing sedentary employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school graduate- no direct entry into skilled work), employment history (unskilled), Medical-Vocational Rule 201.12 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.

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. DHS administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. DHS policies for SDA are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 at 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1.

A person is disabled for SDA purposes if the claimant (see BEM 261 at 1):

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or

- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

It has already been found that Claimant is disabled for purposes of MA benefits based on application of Medical-Vocational Rule 201.12. The analysis for determining Claimant's eligibility for MA benefits is identical to an SDA eligibility analysis. It is found that Claimant is a disabled individual for purposes of SDA benefits and that DHS improperly denied Claimant's application for SDA benefits.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHS improperly denied Claimant's application for SDA and MA benefits. It is ordered that DHS:

- (1) reinstate Claimant's SDA and MA benefit application dated [REDACTED]/13;
- (2) evaluate Claimant's eligibility for SDA and 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 benefits.

The actions taken by DHS are **REVERSED**.



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

Date Signed: 12/23/2013

Date Mailed: 12/23/2013

**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:

