

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-45556
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: October 1, 2013
County: Ionia

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge upon Claimant's request for a hearing made pursuant to Michigan Compiled Laws 400.9 and 400.37, which govern the administrative hearing and appeal process. After due notice, an in-person hearing was commenced on October 1, 2013, at the Ionia Department of Human Services (Department) office. Claimant, represented by [REDACTED] of [REDACTED] personally appeared and testified. Participants on behalf of the Department included Assistant Attorney General [REDACTED] and Eligibility Specialist [REDACTED].

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical evidence. The new evidence was forwarded to the State Hearing Review Team ("SHRT") for consideration. On November 12, 2013, the SHRT found Claimant was not disabled. This matter is now before the undersigned for a final decision.

ISSUE

Whether the Department of Human Services (the department) properly denied Claimant's application for Medical Assistance (MA-P), Retro-MA and State Disability Assistance (SDA)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On October 18, 2012, Claimant filed an application for MA-P, Retro-MA and SDA benefits alleging disability.
- (2) On February 11, 2013, the Medical Review Team (MRT) denied Claimant's application for MA-P, Retro-MA and SDA for lack of duration. (Depart Ex. A, pp 38-39).

- (3) On February 21, 2013, the department caseworker sent Claimant notice that her application was denied.
- (4) On May 7, 2013, Claimant filed a request for a hearing to contest the department's negative action.
- (5) On July 30, 2013, the State Hearing Review Team (SHRT) found Claimant was not disabled and retained the capacity to perform light exertion tasks while avoiding pulmonary irritants. (Depart Ex. B, pp 1-2).
- (6) Claimant has a history of cervical/uterine cancer, hypertension, hypercholesterolemia, emphysema, chronic obstructive pulmonary disease (COPD), diabetes, pleurisy, gastroesophageal reflux disease (GERD), ulcers, morbid obesity, degenerative disc disease, low back pain, arthritis, neuropathy, depression and anxiety.
- (7) Claimant is a 53 year old woman whose birthday is [REDACTED]. Claimant is 5'9" tall and weighs 286 lbs.
- (8) Claimant completed the eleventh grade.
- (9) Claimant last worked as a cashier in 2005.
- (10) Claimant was appealing the denial of Social Security disability benefits at the time of the hearing.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department, (DHS or department), pursuant to MCL 400.10 *et seq.* and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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

Current legislative amendments to the Act delineate eligibility criteria as implemented by department policy set forth in program manuals. 2004 PA 344, Sec. 604, establishes the State Disability Assistance program. It reads in part:

Sec. 604 (1). The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens

of the United States or aliens exempt from the Supplemental Security Income citizenship requirement who are at least 18 years of age or emancipated minors meeting one or more of the following requirements:

(b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

Specifically, this Act provides minimal cash assistance to individuals with some type of severe, temporary disability which prevents him or her from engaging in substantial gainful work activity for at least ninety (90) days.

Disability is defined as the inability to do any substantial gainful activity 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). The person claiming a physical or mental disability has the burden to establish it 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and, (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (e.g., age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need to evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from Step 3 to Step 4. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 945(a)(1). An individual's residual functional capacity assessment is evaluated at both Steps 4 and 5. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, Claimant is not involved in substantial gainful activity and testified that she has not worked since 2005. Therefore, she is not disqualified from receiving disability benefits under Step 1.

The severity of the individual's alleged impairment(s) is considered under Step 2. The individual bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 916.920(a)(4)(ii); 20 CFR 916.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 916.921(b). Examples include:

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
2. Capacities for seeing, hearing, and speaking;
3. Understanding, carrying out, and remembering simple instructions;
4. Use of judgment;
5. Responding appropriately to supervision, co-workers and usual work situations; and

6. Dealing with changes in a routine work setting. *Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 citing *Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a claimant's age, education, or work experience, the impairment would not affect the claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due to cervical/uterine cancer, hypertension, hypercholesterolemia, emphysema, chronic obstructive pulmonary disease (COPD), diabetes, pleurisy, gastroesophageal reflux disease (GERD), ulcers, morbid obesity, degenerative disc disease, low back pain, arthritis, neuropathy, depression and anxiety.

In August, 2012, Claimant was hospitalized overnight with chest pains. The pain was alleviated in the emergency department by sublingual nitroglycerin and aspirin, before she was transferred to the hospital for observation. The pain was associated with intense diaphoresis, fatigue and weakness and shortness of breath while sitting and also on exertion, coughing with sputum production that was clearly secondary to Claimant's previously treated upper respiratory infection. She appeared in mild distress and was overweight.

In February, 2013, Claimant presented to the emergency department with difficulty breathing. Associated symptoms included rhinorrhea, sore throat, cough, shortness of breath and wheezing. The chest x-ray showed her lungs were well expanded with no infiltrates and no acute findings. Claimant was diagnosed with bronchitis and given breathing treatments. She was prescribed Albuterol, Prednisone, Azithromycin and nebulizer solution and discharged.

In April, 2013, Claimant returned to the emergency department again complaining of problems breathing. She also had a fever, chest pain, chills, sweats, ear congestion, rhinorrhea, sore throat, myalgias, cough and shortness of breath. Claimant tried the Albuterol inhaler with no relief. She was a smoker and had a past medical history significant for bronchitis and pneumonia. She had wheezes in the right upper field, the right middle field, the right lower field, the left upper field, the left middle field and the left lower field. She was diagnosed with bronchitis and COPD exacerbation. She was prescribed Doxy, Albuterol and Prednisone and discharged home.

In April, 2013, Claimant underwent a medical evaluation by the [REDACTED]. Her chief complaints were COPD, back pain, degenerative disc disease, arthritis, depression, anxiety, hypertension and hypercholesterolemia. She uses her Albuterol inhaler daily. She is intolerant to dust and pollen and the heat and humidity make her breathing worse. She sleeps on two pillows and does have paroxysmal nocturnal dyspnea. She tries to do light household chores but has difficulty sweeping and mopping because of pain. She alternates sitting and standing every 10 minutes.

She appears in mild discomfort. Femoral, popliteal, dorsalis pedis and posterior tibial pulses are decreased bilaterally. She has mild difficulty getting on and off the examination table, mild difficulty heel and toe walking, mild difficulty performing a partial squat and moderate difficulty standing on either foot. There is tenderness at the lumbar spine without paravertebral muscle spasm. She walks with a wide based, guarded gait without the use of an assistive device. She had moderate air trapping with diminished air entry. She appears mildly dyspneic. This appears to be related to her tobacco use and her body habitus. She did have tenderness at approximately L5-S1 and complains of pain radiating into her legs. She is on pain management. She did have some associated degeneration to her knees to a lesser degree. She did have some lower extremity edema. According to the physician, Claimant needs a walking aid to help reduce her pain.

In April, 2013, Claimant underwent a psychological evaluation by the [REDACTED]. Claimant reported problems with her back, COPD, anxiety and depression. She has constant pain in the lumbar area with occasional radiation up into her shoulder blade. She has deteriorating discs in her lumbar region as well as problems with her sciatic nerve that affects her right leg off and on. She quickly fatigues and has a chronic cough. She does get attacks of anxiety and sometimes panic as well. Sometimes her concentration is poor and sometimes she is irritable. She has episodes of sadness with occasional crying spells. She notes that she sleeps poorly, but it is mostly because of the pain. Her motivation is inconsistent. She is able to care for herself for the most part, but occasionally she needs help getting up from a seated position. The examining psychologist indicated Claimant's motor behavior is reduced as far as endurance, strength and range of motion. Her affect was briefly tearful when she talked about the loss of her husband. Diagnosis: Axis I: Dysthymic disorder, Anxiety disorder; Axis II: No diagnosis; Axis III: Obesity, COPD, chronic back pain, sciatic nerve pain, hypertension, hypercholesterolemia and diabetes; Axis IV: Moderate; Axis V: GAF=54. The psychologist opined Claimant's prognosis is fair to good. Her primary limitations are physical. Her psychological symptoms are longstanding and are related to the loss of her husband as well as the loss of some physical abilities and changes in lifestyle. Despite her issues with anxiety and depression, which can interfere to some degree with her daily activities, her motivation is low, and it is more difficult to concentrate when her anxiety interferes with certain kinds of chores such as grocery shopping or times when she might be in crowded, busy places that trigger anxiety attacks.

In July, 2013, Claimant had a pulmonary function test. Her Forced Expiratory Volume (FEV1) was 1.2, 1.0 and 1.2 before bronchodilator and 1.2, 1.4 and 1.2 after bronchodilator. Claimant is 65 inches tall. Her Forced Vital Capacity (FVC) was 1.8, 1.8 and 1.8 before bronchodilator and 2.2, 2.0 and 2.0 after the bronchodilator. To meet Listing 3.02(B) for chronic obstructive pulmonary disease with a height of 65 inches, Claimant's FVC must be equal to or less than 1.45. Here, Claimant's FVC test scores were 1.8, 1.8 and 1.8 before bronchodilator and 2.2, 2.0 and 2.0 after the bronchodilator. As a result, Claimant does not meet Listing 3.02(B). To meet Listing 3.02(A), Claimant's FEV1 must be equal to or less than 1.25. As evidenced by her before bronchodilator FEV1 test scores of 1.2, 1.0 and 1.2, and after bronchodilator scores of 1.2, 1.4 and 1.2, Claimant may meet the listing. The respiratory technician

indicated Claimant made a good effort. She was short of breath and coughing during the test.

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). As summarized above, Claimant has presented some limited medical evidence establishing that she does have some physical limitations on her ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the individual's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. Claimant has alleged physical and mental disabling impairments due to cervical/uterine cancer, hypertension, hypercholesterolemia, emphysema, chronic obstructive pulmonary disease (COPD), diabetes, pleurisy, gastroesophageal reflux disease (GERD), ulcers, morbid obesity, degenerative disc disease, low back pain, arthritis, neuropathy, depression and anxiety.

Listing 1.00 (musculoskeletal system), Listing 3.00 (respiratory system), Listing 4.00 (cardiovascular system), Listing 5.00 (digestive system), Listing 9.00 (endocrine disorders), Listing 11.00 (neurological), Listing 12.00 (mental disorders) and Listing 13.00 (malignant neoplastic diseases) were considered in light of the objective evidence. Based on the foregoing, it is found that Claimant's impairment(s) does not meet the intent and severity requirement of a listed impairment; therefore, Claimant cannot be found disabled at Step 3. Accordingly, Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). 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 are 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.

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. 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 additional 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 (exertional requirements, e.g., sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity to the demands of past relevant work must be made. *Id.* If an individual can no longer do past relevant work, the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions 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 (e.g., 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.*

Claimant's prior work history consists of work as a cashier, housekeeper and laborer. In light of Claimant's testimony, and in consideration of the Occupational Code, Claimant's prior work is classified as unskilled, light to medium work.

Claimant testified that she is able to walk short distances and can lift/carry approximately 5 pounds. The objective medical evidence notes no physical limitations. If the impairment or combination of impairments does not limit an individual's physical or

mental ability to do basic work activities, it is not a severe impairment(s) and disability does not exist. 20 CFR 416.920. In consideration of Claimant's testimony, medical records, and current limitations, Claimant cannot be found able to return to past relevant work. Accordingly, Step 5 of the sequential analysis is required.

In Step 5, an assessment of the individual's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 53 years old and was, thus, considered to be an individual approaching advanced age for MA-P purposes. Claimant had completed the eleventh grade. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from Claimant to the Department to present proof that Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). 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).

In this case, the evidence reveals that Claimant suffers from cervical/uterine cancer, hypertension, hypercholesterolemia, emphysema, chronic obstructive pulmonary disease (COPD), diabetes, pleurisy, gastroesophageal reflux disease (GERD), ulcers, morbid obesity, degenerative disc disease, low back pain, arthritis, neuropathy, depression and anxiety. The independent medical evidence supports Claimant's testimony. Based on Claimant's age of 53 years, an eleventh grade education and an unskilled work history, it is found that Claimant meets Medical-Vocational Grid Rule 201.09, and Claimant is disabled for purposes of the MA-P program at Step 5.

A person is considered disabled for purposes of SDA if the person has a physical or mental impairment which meets federal SSI disability standards for at least 90 days. Receipt of SSI or RSDI benefits based upon disability or blindness or the receipt of MA benefits based upon disability or blindness automatically qualifies an individual as disabled for purposes of the SDA program. Other specific financial and non-financial eligibility criteria are found in BEM 261. Inasmuch as Claimant has been found "disabled" for purposes of MA, he must also be found "disabled" for purposes of SDA benefits.

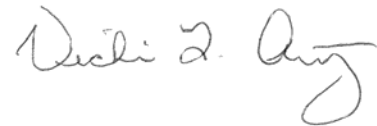
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining Claimant is not currently disabled for MA/Retro-MA and SDA eligibility purposes.

Accordingly, the department's decision is **REVERSED**, and it is ORDERED that:

1. The department shall process Claimant's October 18, 2012, MA/Retro-MA and SDA application, and shall award her all the benefits she may be entitled to receive, as long as she meets the remaining financial and non-financial eligibility factors.
2. The department shall review Claimant's medical condition for improvement in December, 2014, unless her Social Security Administration disability status is approved by that time.
3. The department shall obtain updated medical evidence from Claimant's treating physicians, physical therapists, pain clinic notes, etc. regarding her continued treatment, progress and prognosis at review.

It is SO ORDERED.



Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: December 5, 2013

Date Mailed: December 5, 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

VLA/las

cc:

