

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20135689
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: February 7, 2013
County: Wayne DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, an in-person hearing was held on February 7, 2013, from Taylor, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Medical Contact Worker.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) on the basis that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On 7/3/12, Claimant applied for MA benefits, including retroactive MA benefits from 6/2012.
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On 8/29/12, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 2-3).
4. On 10/2/12, DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On 10/11/12, Claimant requested a hearing disputing the denial of MA benefits.
6. On 12/16/12, the State Hearing Review Team (SHRT) determined that Claimant was not a disabled individual (see Exhibits 88-89), in part, by finding that Claimant can perform past relevant employment.
7. On 2/7/13, an administrative hearing was held.
8. At the hearing, Claimant presented new medical documents (Exhibits A1-A8).
9. An updated medical packet was forwarded to SHRT for review.
10. On 3/30/13, SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 202.13.
11. As of the date of the administrative hearing, Claimant was a [REDACTED] year old female with a height of 5'5" and weight of 230 pounds.
12. Claimant has no known relevant history of substance abuse.
13. Claimant's highest education year completed was the 12th grade.
14. As of the date of the administrative hearing, Claimant had no medical coverage but received some free prescriptions from a clinic.
15. Claimant alleged disabilities and/or impairments including: degenerative disc disease (DDD) with radiculopathy, diabetes and depression.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). DHS (formerly known as the Family Independence Agency) administers the MA program 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).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

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 at 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 (see BEM 260 at 1-2):

- 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).

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 at 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 2011 monthly income limit considered SGA for non-blind individuals is \$1,000. The 2012 income limit is \$1010/month.

In the present case, Claimant testified that she performed employment as a cashier up until the date that she applied for MA benefits. A Medical Social Questionnaire completed by Claimant, and dated 7/12/12 noted that she works 16-23 hours/week for \$9.05/hour. Claimant testified that her employment was part-time and that she was physically incapable of working full-time. Based on the presented evidence, Claimant is not engaging in 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. The analysis will begin with the relevant submitted medical documentation.

Hospital records (Exhibits 24-53; 58-68) from a [REDACTED] admission were presented. It was noted that Claimant presented with primary complaints of a non-radiating burning chest pain, pelvic swelling and leg cramping. It was noted that the pain had been ongoing for Claimant for three weeks. It was noted that a chest x-ray was negative. It was noted that Claimant was negative for deep vein thrombosis. It was noted that Claimant's ejection fraction was 55%-60%. It was noted that fluids and medications, including insulin, were administered. It was noted that Claimant was discharged on [REDACTED] in stable condition. Diagnoses of hyperglycemia and poorly controlled diabetes were noted.

Medical records (Exhibits 69-77) dated [REDACTED] were presented. The records included lab test results and diabetes information but did not include any physician analysis.

A consultative physical examination (Exhibits 9-14) dated [REDACTED] was presented. It was noted that information within the report came from Claimant and recent hospital records. It was noted that Claimant complained of fatigue, headaches, foot swelling, hand swelling, leg pain, memory loss, depression and nervousness. It was noted that Claimant had a positive straight leg raising test on the right. It was noted that Claimant had decreased sensation in both feet. It was noted that Claimant could walk heel-to-toe and heel walk without difficulty. Claimant's range of motion was restricted in her lumbar, hip and knees. A physician assessment noted the possibility of lumbar radiculopathy and claudications. The examiner did not cite any restrictions to Claimant.

A consultative psychological examination (Exhibits 15-18) dated [REDACTED] was presented. It was noted that Claimant reported feeling depressed from pushing herself for so long. It was noted that there was an absence of psychological treatment history. It was noted that Claimant displayed slow motor activity and a depressed mood. It was noted that Claimant had diminished self-esteem. It was also noted that Claimant was: talkative, responsive, logical, organized, pleasant, friendly and goal directed. An Axis I diagnosis of depressive disorder was noted. Claimant's GAF was 75. It was noted that Claimant had mildly impaired social functioning. It was noted that Claimant's ability to understand, remember and carry out tasks was mildly impaired. It was noted that Claimant's concentration and ability to handle stress was moderately impaired.

A Psychiatric Evaluation (Exhibits A1-A6) dated [REDACTED] was presented. It was noted that Claimant reported complaints of stress, depression and anxiety. An Axis I diagnosis of major depressive disorder, recurrent was noted. Claimant's GAF was noted as 53.

A letter dated [REDACTED] from a head nurse was presented. It was noted that Claimant received periodic treatment since 8/2012 for diabetes and arthritis.

A medication log from Claimant's treating psychological examiner dated [REDACTED] was presented. It was noted that Claimant received a prescription for Celexa.

The evidence established that Claimant was diagnosed with depression by a recently obtained treating physician and by a consultative examiner. The consultative examiner found Claimant to possess a GAF of 75. A GAF within the range of 71-80 notes if symptoms are present, they are transient and expectable reactions to psychosocial stressors (e.g., difficulty concentrating after family argument); no more than slight impairment in social, occupational, or school functioning (e.g., temporarily falling behind in schoolwork). Despite the relatively high GAF, moderate restrictions were found in Claimant's ability to concentrate and handle stress. These restrictions were more consistent with the findings of a psychiatric evaluation performed a few months later where Claimant's GAF was 53. A GAF between 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. Claimant's moderate psychological functioning difficulties are sufficient to establish impairments to basic work abilities.

Medical records noted that Claimant is depressed from a variety of factors including recent family deaths, fading physical health and low self-esteem. Depression was documented as far back as 8/2012, by the consultative examiner. Based on the examiner's statements, the depression can be presumed to have existed at least one month earlier, the month of Claimant's MA benefit application. Claimant testified that she sees a psychiatrist every 6-8 weeks. Based on the nature of depression, the relative infrequency of therapy and Claimant's symptoms, it is probable that Claimant's symptoms will continue for a 12 month period.

As it was found that Claimant established significant impairment to basic work activities for a period of at least 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 primary restrictions appear to be related to depression. The applicable SSA listing for depression is covered by affective disorders and reads:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or
 3. Marked difficulties in maintaining concentration, persistence, or pace; or
 4. Repeated episodes of decompensation, each of extended duration

OR

- C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability

to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

Starting with Part B of the listing, there was evidence of mild and moderate restrictions to Claimant's social functioning and concentration abilities, respectively. No marked restrictions were established. Claimant's most recent GAF of 53 is also consistent with moderate restrictions. There was no history of psychiatric hospitalizations (i.e. episodes of decompensation). The evidence failed to establish that Claimant meets Part B of the listing for affective disorders.

Turning to part C, a consultative examiner noted that Claimant is moderately impaired in handling stress. Claimant also testified that she has not worked since 7/2012 due to a combination of physical and psychological stressors. This evidence verified psychological obstacles for Claimant but did not fully establish that the stress of employment would cause Claimant to decompensate or that she requires a highly supportive living arrangement.

It is found that Claimant does not meet Parts B or C of the listing for affective disorder. Thus, Claimant does not meet the listing for affective disorders.

A listing for spinal disorders (Listing 1.04) based on Claimant's complaint of lumbar radiculopathy. This evidence was rejected due to a lack of evidence that demonstrated that Claimant has the inability to ambulate effectively.

A listing for endocrine disorders (Listings 11.00) was considered based on a diagnosis for diabetes. The listing was rejected due to a failure to establish any restrictions or notable symptoms related to the diabetes.

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 worked part-time as a cashier up until her hospitalization. Claimant testified that her duties included some shelf stocking, cleaning and customer service duties. Claimant testified that her past work also includes time as a waitress. Claimant testified that she is limited to about two block of walking before pain prevents further ambulation. Claimant stated her walking restrictions would prevent her from maintaining her previous waitress or cashier employment.

There was not a litany of medical records to support that Claimant has ambulation restrictions. The two day hospitalization from 6/2012 appeared to be an isolated incident rather than evidence of a permanent disability. No other hospitalizations followed. The diagnosis of poorly controlled diabetes also tends to establish that the problem is controllable and unrelated to a long-term disability.

The only other evidence of exertional restrictions came from a consultative examiner. The examiner suspected lumbar radiculopathy as a diagnosis, but the diagnosis was never verified by radiography. An unverified diagnosis is somewhat understandable when factoring Claimant's lack of health insurance. Though radiography is a preferred method of verification, there was observational evidence noted in the consultative examination report. A positive straight leg raising test is consistent with walking restrictions. Restrictions in range of motion in hips, lumbar and knees are also consistent with ambulation restrictions.

There was not compelling evidence that Claimant pursued any low-cost or free medical treatments. Claimant testified that she took Motrin for her back pain but it was of little value. Claimant's apparent lack of effort is mildly persuasive in finding that Claimant is at fault for the overall lack of medical evidence.

It was established that Claimant was part-time employed, for the past 15 years, until 6/2012, the time she alleged suffering a disability. The lengthy work history is mildly supportive in finding that Claimant's failure to work is not due to a lack of effort.

Based on the lack of verified medical evidence, it could be reasonably be found that Claimant failed to provide sufficient evidence of disability. However, based on Claimant's respectable work history and findings by the consultative examiner, it is found that Claimant sufficiently established ambulation restrictions that would prevent the performance of former employment. Accordingly, the analysis may proceed to step five.

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

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

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

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

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

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

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

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

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

For purposes of this decision, only an analysis of light employment will be undertaken. All of Claimant's reported medical problems will be considered in the analysis.

A consultative examiner noted that Claimant "may have lumbar radiculopathy". The assessment seems reasonable based on restricted ranges of motion, a positive straight leg raising test and Claimant's complaints of walking extended distances. Ideally, other treatment records would have been presented. Claimant's lack of insurance is a reasonable excuse for not seeking out treatment for back pain. Based on the presented evidence, the lumbar radiculopathy is found to limit Claimant from walking lengthy distances. Accordingly, Claimant is limited to sedentary employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school graduate- no 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 denied Claimant's MA benefit application.

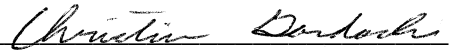
DECISION AND ORDER

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 7/3/12, including retroactive MA from 6/2012;
- (2) evaluate Claimant's eligibility for MA benefits on the basis 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: 4/17/2013

Date Mailed: 4/17/2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

