

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-53113
Issue No.: 2009, 2001
Case No.: [REDACTED]
Hearing Date: November 20, 2013
County: Wayne (82)

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, a telephone hearing was held on November 20, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

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

The second issue is whether DHS properly denied Claimant's Adult Medical Program (AMP) eligibility due to excess income.

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] Claimant applied for MA benefits.
2. Claimant's application listed a claimed disability and part-time employment.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 5-6).

4. On [REDACTED], DHS denied Claimant's application for MA benefits (AMP and Medicaid) and mailed a Notice of Case Action (Exhibits A14-A15) informing Claimant of the denial.
5. On [REDACTED], Claimant requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 204.00
7. On [REDACTED], an administrative hearing was held.
8. On [REDACTED], a verbal Interim Order Extending the Record (mailed on [REDACTED]) was issued giving DHS 30 days from the date of hearing to submit the following items:
 - Notice of Case Action concerning AMP eligibility;
 - Claimant's hospital records from [REDACTED] and [REDACTED]
 - additional documents brought to the hearing by Claimant.
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 any additional medical documents considered and forwarded by SHRT.
11. On [REDACTED], the Michigan Administrative Hearings System received the requested documentation from DHS.
12. On [REDACTED], an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by State Hearing Review Team was subsequently issued which extended the record an additional 90 days.
13. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 204.00
14. On [REDACTED], the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
15. As of the date of the administrative hearing, Claimant was a 52-year-old male with a height of 6'0" and weight of 210 pounds.
16. Claimant has no known relevant history of alcohol or illegal substance abuse.
17. Claimant's highest education year completed was the 12th grade.

18. As of the date of the administrative hearing, Claimant had no health insurance.
19. Claimant alleged disability based on impairments and issues including foot ulcers, neuropathy, back problems and depression.

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 testified that he worked 20 hours per week in 5/2013 and 6/2013. Claimant testified that he received compensation of \$100/week for his work. Claimant denied any other employment since applying for MA benefits based on disability. Presented pay stubs (Exhibits 68, 70-74) were consistent with Claimant's testimony. It is found that Claimant is not performing SGA and that Claimant has not performed SGA since the date of MA benefit application; 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 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.

Various mental health center treatment documents (Exhibits 49-67) dated [REDACTED] were presented. It was noted that Claimant presented with a history of drug abuse and complaints of depression.

Mental health center documents (Exhibits 46-48) dated [REDACTED] were presented. It was noted that Claimant had mild functioning impairment in the ability to concentrate, hygiene, hobbies, friendship and marriage.

A Psycho-Social Assessment (Exhibits 21-25) dated [REDACTED] was presented. It was noted that Claimant presented with complaints of depression, insomnia, fear of dying and a lack of motivation. It was noted that Claimant last used crack cocaine, alcohol and marijuana one month ago.

Documents (Exhibits 26-32) dated [REDACTED] from a mental health center were presented. It was noted that Claimant "evidenced current use or increased risk of use of drugs other than opiates". It was noted that Claimant reported a desire to stop drug use, attend weekly peer support meetings and work with a psychiatrist to reduce symptoms.

A Psychiatric Evaluation Template (Exhibits 18-20) dated [REDACTED] was presented. The evaluation was completed by a psychiatrist. It was noted that Claimant had a history of drug and alcohol abuse going back to age 14. It was noted that Claimant lived in a homeless shelter. A mental status examination noted the following: well groomed appearance, articulate speech, mildly constricted range of affect, logical thought process, no hallucinations, no delusions, no suicidal ideation, grossly intact memory, alert x3 and fair insight. An Axis I diagnosis of major depression (recurrent, partial remission) was noted. Claimant's GAF was 52. A fair prognosis was noted.

Mental health center documents (Exhibits 33-38) dated [REDACTED] were presented. It was noted that Claimant's progress in treatment was somewhat improved. Intensive outpatient care was recommended.

Mental health center documents (Exhibits 39-45) dated [REDACTED] were presented. It was noted that Claimant showed slight improvement by moving from contemplation to preparation stage as it pertained to his recovery. It was noted that Claimant had no impairment in 10 different areas which included the following: friendship, ability to concentrate, ability to control temper, hygiene and family.

A Psychiatric/Psychological Examination Report (Exhibits 11-12) dated [REDACTED] was presented. The report was completed by a person with a title of CPSS; CPSS is presumed to refer to a certified peer support specialist. An Axis I diagnosis of major depression was noted. Claimant's GAF was 52.

A Mental Residual Functional Capacity Assessment (Exhibits 13-14) dated [REDACTED] was presented. The report was completed by the same person completing the Psychiatric/Psychological Examination Report. The CPSS found Claimant to be markedly limited in all 20 listed work-related abilities.

A Final Report (Exhibits A9-A13) from a hospital admission dated [REDACTED] was presented. It was noted that Claimant presented with bilateral foot pain and right foot swelling. It was noted that Claimant showed plantar ulcers on both feet. It was noted that Claimant reported no neuropathy in his hands. It was noted that diabetic neuropathy likely caused the foot ulcers. It was noted that Claimant was treated with medications and that bandages were applied to Claimant's foot ulcers, It was noted that Claimant was discharged on [REDACTED].

A Mental Residual Functional Capacity Assessment (Exhibits A6-A8) dated [REDACTED] was presented. The assessment was completed by a treating psychiatrist who noted that Claimant was last seen on [REDACTED]. The psychiatrist noted that Claimant was markedly limited in the following abilities: understanding and remembering detailed instructions,

carrying out detailed instructions, maintaining concentration for extended periods, completing a normal workday without psychological interruption, getting along with coworkers or peers without exhibiting behavioral extremes, maintaining socially appropriate behavior, responding appropriately to changes in the work setting, taking appropriate precautions of normal hazards and setting realistic goals. Claimant was also found moderately limited in 11 other work-related abilities including understanding and remembering one or two step instructions in carrying out one or two step instructions.

A Medical Examination Report (A1-A3) dated [REDACTED] was presented. The report was completed by a physician with an approximate four month history of treating Claimant. Diagnoses of diabetes mellitus (type II), neuropathy, major depressive disorder and diabetic foot ulcers were noted. The physician noted that Claimant's condition was stable. The physician noted that Claimant's ability to lift stand and walk were not assessed though Claimant reported significant difficulties performing each task. It was noted that Claimant could meet his household needs.

Claimant alleged disability, in part, based on psychological symptoms. On [REDACTED], Claimant's therapist and psychiatrist stated that Claimant was markedly limited in 20/20 listed work abilities. The assessment is consistent with an individual who is barely functional. The outlook for Claimant improved slightly four months later when Claimant was found markedly limited in 9/20 abilities and moderately limited in 11/20 abilities.

Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*. An analysis must be performed to determine the credibility of Claimant's treating physicians.

Claimant testified that he has been drug-free for three years. Claimant's testimony contradicted psychological records from 1 [REDACTED] which tended to corroborate that Claimant used drugs within the last few days. Claimant's functioning improvement from [REDACTED] to [REDACTED] is likely in some part due to Claimant's abstention from drug-use; treatment for drugs is also a likely contributor to improvement. The evidence was consistent with finding that Claimant last used in [REDACTED]. Thus, Claimant's impairments in [REDACTED] are more likely to be related to drug use withdrawal rather than disability.

Claimant testified that he has attended therapy five times per week since [REDACTED]. Five therapy sessions per week is consistent with psychological impairments. The degree of psychological impairment is more difficult to assess. Claimant credibly testified that he independently performs all activities of daily living. Claimant also testified that he independently takes public transportation to attend five sessions of therapy per week. Claimant's testimony is consistent with a person with no worse than moderate psychological impairments.

In the step one analysis it was noted that Claimant performed employment in [REDACTED] and [REDACTED]. Claimant testified that he stopped the employment due to physical

restrictions, not psychological impairments. Employment is consistent with a person with no worse than moderate psychological restrictions.

Claimant's GAF also supported that Claimant had impairments. A GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. Moderate psychological impairments is a reasonable assessment for a person regularly attending therapy, with no psychological hospitalization, no hallucinations and recent employment. Based on the presented evidence, the assessments provided by Claimant's therapist and/or psychiatrist are deemed to be exaggerated.

Moderate functioning symptoms is still a significant impairment to performing basic work activities. The symptoms likely have and will continue to last for 12 months or longer. Thus, Claimant has severe psychological impairments.

Claimant also alleged severe exertional impairments. Claimant testified that he has walking restrictions from neuropathy. Neuropathy is known to be a irreversible and painful condition. Claimant's hospitalization from a chronic foot ulcer was consistent with a walking restriction. Claimant testified that he is limited to 2-3 hours of walking per day. Claimant's testimony was consistent with the medical evidence. It is found that Claimant is restricted in walking due to neuropathy and that the impairment has and will continue to last for 12 months or longer.

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.

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

A listing for peripheral neuropathies (Listing 11.14) was considered based on a diagnosis for neuropathy. The listing was rejected due to a lack of evidence that Claimant suffers disorganization of motor function.

A listing for substance abuse disorders (Listing 12.09) was considered. The listing was rejected due to a failure to establish any of the listings referenced within the substance abuse listing.

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's Work History Report (Exhibits 75-82) was presented. Claimant's job titles from the last 15 years included the following: hi-lo driver, houseman, banquet server, parts packer and server. Claimant states he cannot perform houseman employment because it is reserved for those in drug treatment. Claimant testified that he cannot be a banquet server or server because he cannot perform the walking necessary to perform the employment. Claimant's testimony was consistent with the medical evidence.

Claimant testified that he could perform employment as a hi-lo driver or as a parts packer, if given the opportunity. Claimant's testimony appeared to be overly optimistic. Claimant's psychiatrist determined that Claimant was markedly impaired in completing an 8-hour workday without psychological impairment. Claimant's neuropathy would likely affect Claimant's ability to walk and operate foot controls. The combination of psychological and exertional impairments would prevent Claimant from performing past 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).

In the second step of the analysis, it was found that Claimant's neuropathy and walking restrictions were severe impairments. It was also found that Claimant was restricted to 2-3 hours of walking per day. In step four of the analysis, it was determined that neuropathy would prevent Claimant from operating foot controls. The findings are consistent with finding that Claimant is unable to performing any type of employment other than sedentary employment.

Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (high school- no direct entry into skilled employment), 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 Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10. Claimant also requested a hearing to dispute the termination of AMP benefits. If DHS determines that Claimant is eligible for Medicaid, an AMP determination is unnecessary because Medicaid is a superior MA program than AMP. If DHS determines Claimant to be ineligible for Medicaid, then Claimant then Claimant's AMP eligibility may be an alternative MA program for which Claimant may be eligible. Thus, a brief analysis must be undertaken. It was not disputed that DHS denied Claimant's AMP eligibility due to excess income.

For AMP, income eligibility exists when the program group's net income does not exceed the program group's AMP income limit. BEM 640 (10/2010), p. 3. The net income limit for the AMP program for a group size one is \$336. RFT 236 (4/2009), p. 1.

No evidence of Claimant's employment income was presented. An AMP budget was not presented. Without evidence of Claimant's AMP ineligibility, it can only be determined that DHS failed to establish that a denial of AMP was appropriate.

DHS will be ordered to recalculate Claimant's AMP eligibility from the date of termination. A redetermination of AMP eligibility will only be necessary if DHS finds Claimant ineligible for Medicaid.

DECISION AND ORDER

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

- (1) reinstate Claimant's MA benefit application dated [REDACTED]
- (2) evaluate Claimant's eligibility for MA benefits subject to the finding that Claimant is a disabled individual;
- (3) initiate a supplement for any benefits not issued as a result of the improper application denial;
- (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; and
- (5) if Claimant is found ineligible for Medicaid eligibility, then DHS is to also re-evaluate Claimant's AMP eligibility.

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



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

Date Signed: 2/21/2014

Date Mailed: 2/21/2014

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:

