

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-62443
Issue No.: 2009, 4009, 3000
Case No.: [REDACTED]
Hearing Date: January 27, 2014
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on January 27, 2014, from Inkster, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's brother, testified on behalf of Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Medical Contact Worker.

ISSUE

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

FINDINGS OF FACT

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

1. On [REDACTED], Claimant applied for MA benefits, including retroactive MA benefits from 12/2012.
2. On [REDACTED], Claimant applied for SDA benefits.

3. Claimant's only basis for MA and SDA benefits was as a disabled individual.
4. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 5-6).
5. On [REDACTED], DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action (Exhibits 149-151) informing Claimant of the denial.
6. On [REDACTED], Claimant requested a hearing disputing the denial of MA benefits.
7. Claimant also requested a hearing concerning Food Assistance Program (FAP) benefits.
8. Claimant testified that he has no FAP benefit dispute.
9. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by determining that Claimant can perform past relevant employment.
10. On [REDACTED], an administrative hearing was held.
11. Claimant presented new medical documents (Exhibits A1-A48) at the hearing.
12. During the hearing, Claimant waived the right to receive a timely hearing decision.
13. During the hearing, Claimant and DHS waived any objections to allow the admission of any additional medical documents considered and forwarded by SHRT.
14. 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.
15. On [REDACTED], SHRT determined that Claimant was not disabled (See Exhibit B19), in part, by reliance on a Disability Determination Explanation (Exhibits B4-B18)
16. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet including additional medical documents (Exhibits B1-B18) and updated SHRT decision.
17. As of the date of the administrative hearing, Claimant was a 56-year-old male with a height of 6'1" and weight of 159 pounds.

18. Claimant has no known relevant history of alcohol or illegal substance abuse.
19. Claimant's highest education year completed was the 12th grade.
20. As of the date of the administrative hearing, Claimant was an Adult Medical Program recipient.
21. Claimant alleged disability based on impairments and issues including lower back pain (LBP), mid-back pain, syncope, hypotension, insomnia and right knee pain.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies:

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

BEM 260 (7/2012) pp. 1-2

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing

a medical review process which determines whether Claimant is a disabled individual. *Id.* at 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 (7/2012), p. 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.* at 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

Claimant denied performing any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Without ongoing employment, it can only be concluded that Claimant is not performing SGA. It is found that Claimant is not performing SGA; accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment
- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (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.

An MRI Report of Claimant's lumbar spine (Exhibit A1) dated [REDACTED] was presented. Noted findings included small hyper-intense lesions at T12 and hemangioma.

Hospital documents (Exhibits 95-110) from an admission dated [REDACTED] were presented. It was noted that Claimant was brought to the hospital after he was found lying on the floor. Several abrasions on Claimant's head were noted. It was noted that Claimant reported blurry vision, loss of appetite, insomnia. An impression of acute renal

failure was noted. Other noted impressions included: metabolic acidosis, hypotension, hyponatremia and hypokalemia.

Hospital documents (Exhibits 111-144) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with a history of vomiting, ongoing for 1 day. A 40 pound weight loss over several months was noted. Lab results were noted as unremarkable. A CT of the abdomen showed no significant abnormalities. It was noted that Claimant received medications and was discharged on [REDACTED] after feeling better.

Hospital documents (Exhibits 19-20; 28-54; 79-82) including lab results (Exhibits 63-70) from an admission dated [REDACTED] were presented. It was noted that Claimant presented following an alleged seizure resulting in a fall. It was noted that Claimant reported ongoing seizures for the past 2 weeks. A complaint of cervical pain was also noted. It was noted that Claimant reported losing 50-60 pounds in the prior 3-4 months, in part, due to recurring vomiting. An EEG was noted as unremarkable. It was noted that a stress test revealed large sized moderate intensity reversible defect involving the anterior wall, which was suggestive of ischemia LAD territory (see Exhibit 76). It was noted that cerebral ischemia was ruled out as a cause for syncope. It was noted that Claimant would complete a sleep study on an outpatient basis. It was noted that Claimant was discharged on [REDACTED] in fair condition.

Office Visit documents (Exhibits 14-16) dated [REDACTED] including lab results (Exhibit 62) were presented. The documents were completed by a physician following-up with Claimant following a recent hospitalization. The physician noted that Claimant had a bulge in the abdominal area, which was noted as inguinal hernia; the examiner noted that Claimant should schedule a general surgery appointment. It was noted that a Holter monitor was ordered to monitor an abnormal heart rate. Diagnoses of chronic back pain, hypotension and anemia were also noted.

A Discharge Summary and hospital documents (Exhibits 17-18; 21-27; 83-84) including lab results (Exhibits 55-62) from a hospital admission dated [REDACTED] was presented. It was noted that Claimant presented with complaints of neck pain. It was noted that Claimant took 53 Tylenol over two days in an attempt to control the pain. It was noted that Claimant had cervical fusion surgery (C4-C5) in 2011. Diagnoses of acetaminophen overdose and chronic pain were noted. It was noted that Claimant's acetaminophen level normalized and Claimant was discharged on [REDACTED] in fair condition.

An MRI report (Exhibits 71-74) of Claimant's thoracic spine dated [REDACTED] was presented. An impression of an uncomplicated MRI appearance was noted.

A consultative mental status examination report (Exhibits B1-B3) dated [REDACTED] from a psychiatrist was presented. It was noted that Claimant drove himself to the examination. An Axis I diagnosis of amnesic disorder was noted. Claimant's GAF was 55-60. A fair prognosis was noted. The examiner noted that Claimant's problem was stress. The psychiatrist noted that Claimant's knowledge of computers was so good that memory would probably not be an obstacle to performing the employment.

Hospital documents (Exhibits A2-A33) from an encounter dated [REDACTED] were presented. It was noted that Claimant had a complex medical history. It was noted that Claimant presented with a fever, chills and flank pain. It was noted that Claimant will need surgical repair for hernia but “this is not the right time” (see Exhibit A22). It was noted that Claimant was treated one month ago for urinary retention; treatment by Foley catheter was noted.

Hospital documents (Exhibits A34-A48) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented for a follow-up appointment after two hospitalizations in the prior month. It was noted that one hospitalization was for acute renal failure, likely due to an enlarged prostate. It was noted that Claimant failed to follow-up with a urologist due to insurance problems. A second hospitalization occurred when Claimant developed a urinary tract infection (UTI). It was noted that the UTI resolved after antibiotics were prescribed. Claimant reported complaints of abnormal bladder function, erratic blood pressure, an increasingly large hernia and back pain increasing in severity. It was noted that Claimant took pain medication but back pain was intolerable. Surgery for hernia was discussed but not scheduled (presumably due to a lack of insurance).

Claimant established a litany of medical problems since 12/2012, some resolved, others ongoing. Ongoing problems included hernia, kidney function, syncope and back pain. All four problems affect Claimant’s ability to lift and ambulate. All four problems have and/or can be expected to last a minimum of 12 months.

An accidental overdose of pain medication to combat neck pain was compelling evidence of neck pain. An impression of “hyper-intense” lesions on a lumbar MRI implied that Claimant’s back pain was of a severe nature.

It is curious that Claimant alleged episodes of syncope yet drove in a day he claimed to have five episodes syncope episodes (see Exhibit B1). This evidence tended to establish bad judgment by Claimant rather than an exaggeration of symptoms because other syncope episodes were noted in hospital documents.

Based on the presented evidence, it is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. 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 weight loss (Listing 5.08) was considered based on Claimant's complaints of weight loss. The listing was rejected due to a failure to present evidence of Claimant's BMI.

A listing for impairment of renal function (Listing 6.02) was considered. The listing was rejected due to a failure to establish any of the required criteria within the listing.

A listing for spinal disorder (Listing 1.04) was considered. The listing was summarily rejected due to an absence of radiology and diagnoses concerning spinal disorders.

Listings for epilepsy (Listings 11.02 and 11.03) were considered based on Claimant's report of syncope episodes. The listings were rejected due to a failure to establish a seizure pattern and/or compliance with prescribed treatment.

A listing for organic mental disorders (Listing 12.07) was considered based on a diagnosis for amnestic disorder which was noted as probably due to brain hypotoxia. The listing was rejected due to a failure to verify marked restrictions along with other listing requirements.

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.

A Work History Report (Exhibits 152-159) was presented. The report was completed by Claimant on 4/30/13. Claimant's employment history noted that Claimant had the following jobs: systems analyst, CAD engineer, SMS engineer and SMS analyst. Claimant reported that as a SMS engineer, he sat for 6-7 hours and carried no more than 20 pounds (though 10 pounds was noted as a frequently lifted weight). Claimant's other jobs were more physical. Thus, the analysis will only address whether Claimant can perform his employment as an SMS engineer. SSA determined that Claimant could perform past relevant employment (see Exhibit B17).

As noted in step 2, Claimant established ongoing problems with renal failure, syncope, back pain and hernia. Several hospitalizations were verified. The hospitalizations also tended to establish that Claimant's diagnoses were not treated in the long-term due to Claimant's inability to afford treatment. Claimant's back pain alone would make it improbable that Claimant could lift 20 pounds occasionally or 10 pounds regularly. When factoring other medical obstacles (syncope, renal failure, hernia), it is improbable could perform the lifting required of past employment. It is found that Claimant is unable to perform past relevant employment and the analysis may proceed to step five.

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

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

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

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

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

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

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

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

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

It was determined in step four of the analysis that untreated problems with back pain, syncope, renal failure and hernia justify finding that Claimant could not lift 20 pounds nor frequently lift 10 pounds. Realistically, Claimant's combined diagnoses and restrictions would prevent Claimant from realistically performing any type of employment. An inability to perform any type of employment equates to a finding that Claimant is disabled. Accordingly, it is found that DHS improperly denied Claimant's MA benefit application.

An inability to maintain any employment justifies a finding that Claimant is disabled. It is found that Claimant is disabled and that DHS improperly denied Claimant's MA application.

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

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1.

A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- resides in a qualified Special Living Arrangement facility, or
- is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
- is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Id.

It has already been found that Claimant is disabled for purposes of MA benefits based on a finding that Claimant cannot maintain any type of employment. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly denied Claimant's application for SDA benefits.

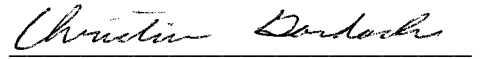
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant has no FAP benefit dispute. Claimant's hearing request is **PARTIALLY DISMISSED**.

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

- (1) reinstate Claimant's MA benefit application dated [REDACTED], including retroactive MA benefits from 12/2012;
- (2) reinstate Claimant's SDA benefit application dated [REDACTED];
- (3) evaluate Claimant's eligibility for MA and SDA benefits subject to the finding that Claimant is a disabled individual;
- (4) initiate a supplement for any benefits not issued as a result of the improper application denial; and
- (5) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

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


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

Date Signed: 4/7/2014

Date Mailed: 4/7/2014

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:

[REDACTED]