

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

IN THE MATTER OF:



Reg. No.: 2014-17078
Issue No(s): 2009
Case No.: [REDACTED]
Hearing Date: May 6, 2014
County: Ingham

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, an in-person hearing was held on Tuesday, May 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant and his [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Gibson, HF.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA)?

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 July 11, 2013, the Claimant applied for MA-P with retroactive MA-P to April 2013.
2. On September 23, 2013, the Medical Review Team (MRT) denied the Claimant's application for MA-P and retroactive MA-P stating that the Claimant had a non-severe impairment per 20 CFR 416.920(c).
3. On September 26, 2013, the Department Caseworker sent the Claimant a notice that her application was denied.

4. On December 10, 2013, the Department received a hearing request from the Claimant, contesting the Department's negative action.
5. On January 30, 2014, the State Hearing Review Team (SHRT) considered the submitted objective medical evidence in making its determination of MA-P and retroactive MA-P for the Claimant. The Claimant is [REDACTED] years old with a [REDACTED] [REDACTED] [REDACTED] and a history of semi-skilled work. She alleges disability due to traumatic stress syndrome, chronic kidney stones, asthma, and shortness of breath. The medical evidence of record does not document a mental/physical impairment(s) that significantly limits the Claimant's ability to perform basic work activities. Therefore, MA-P is denied per 20 CFR §1 416.921(a). Retroactive MA-P was considered in this case and is also denied.
6. During the hearing on May 6, 2014, the Claimant requested permission to submit additional medical information that needed to be reviewed by SHRT. Additional medical information was received from the [REDACTED] and forwarded to SHRT for review on [REDACTED].
7. On June 17, 2014, SHRT considered the newly submitted objective medical evidence in making its determination of MA-P and retroactive MA-P. The Claimant is [REDACTED] years old with a [REDACTED] [REDACTED] and a history of semi-skilled work. She alleges disability due to traumatic stress syndrome, chronic kidney stones, asthma, and shortness of breath. The medical evidence of record does not document a mental/physical impairment(s) that significantly limits the Claimant's ability to perform basic work activities. Therefore, MA-P is denied per 20 CFR §1 416.921 (a). Retroactive MA-P was considered in this case and is also denied.
8. The Claimant is a [REDACTED] year old [REDACTED] whose [REDACTED]. The Claimant is 5'6" tall and weighs 260 pounds. The Claimant has lost 75 pounds in the past year as a result of stomach issues and medication. The Claimant has a [REDACTED] [REDACTED]. The Claimant was not special education in high school. The Claimant can read and write and do basic math. The Claimant was last employed in [REDACTED] at the medium level. The Claimant has also been employed as a [REDACTED] at the sedentary level for three months and as a [REDACTED] at the light level.
9. The Claimant's alleged impairments are posttraumatic stress disorder (PTSD), obsessive-compulsive disorder (OCD), bipolar disorder (BPD), degenerative disc disease (DDD), asthma, meniscus tears in the shoulder, chronic migraines, GERD, ulcers, chronic anxiety, and keratosis of the eyes.

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.

"Disability" is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905.

...We follow a set order to determine whether you are disabled. We review any current work activity, the severity of your impairment(s), your residual functional capacity, your past work, and your age, education and work experience. If we can find that you are disabled or not disabled at any point in the review, we do not review your claim further.... 20 CFR 416.920.

...If you are working and the work you are doing is substantial gainful activity, we will find that you are not disabled regardless of your medical condition or your age, education, and work experience. 20 CFR 416.920(b).

...[The impairment]...must have lasted or must be expected to last for a continuous period of at least 12 months. We call this the duration requirement. 20 CFR 416.909.

...If you do not have any impairment or combination of impairments which significantly limits your physical or mental ability to do basic work activities, we will find that you do not have a severe impairment and are, therefore, not disabled.

We will not consider your age, education, and work experience. 20 CFR 416.920(c). [In reviewing your impairment]...We need reports about your impairments from acceptable medical sources.... 20 CFR 416.913(a).

...Statements about your pain or other symptoms will not alone establish that you are disabled; there must be medical signs and laboratory findings which show that you have a medical impairment.... 20 CFR 416.929(a).

...You must provide medical evidence showing that you have an impairment(s) and how severe it is during the time you say that you are disabled. 20 CFR 416.912(c).

... [The record must show a severe impairment] which significantly limits your physical or mental ability to do basic work activities.... 20 CFR 416.920(c).

...Medical reports should include --

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

...The medical evidence...must be complete and detailed enough to allow us to make a determination about whether you are disabled or blind. 20 CFR 416.913(d).

Medical findings consist of symptoms, signs, and laboratory findings:

- (a) **Symptoms** are your own description of your physical or mental impairment. Your statements alone are not enough to establish that there is a physical or mental impairment.
- (b) **Signs** are anatomical, physiological, or psychological abnormalities which can be observed, apart from your statements (symptoms). Signs must be shown by medically acceptable clinical diagnostic techniques. Psychiatric signs are medically demonstrable phenomena which indicate specific psychological abnormalities e.g., abnormalities of behavior, mood, thought, memory, orientation, development, or perception. They must also be shown by observable facts that can be medically described and evaluated.

- (c) Laboratory findings are anatomical, physiological, or psychological phenomena which can be shown by the use of medically acceptable laboratory diagnostic techniques. Some of these diagnostic techniques include chemical tests, electrophysiological studies (electrocardiogram, electroencephalogram, etc.), roentgenological studies (X-rays), and psychological tests. 20 CFR 416.928.

It must allow us to determine --

- (1) The nature and limiting effects of your impairment(s) for any period in question;
- (2) The probable duration of your impairment; and
- (3) Your residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Information from other sources may also help us to understand how your impairment(s) affects your ability to work. 20 CFR 416.913(e).

...You can only be found disabled if you are unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death, or which has lasted or can be expected to last for a continuous period of not less than 12 months. See 20 CFR 416.905. Your impairment must result from anatomical, physiological, or psychological abnormalities which are demonstrable by medically acceptable clinical and laboratory diagnostic techniques.... 20 CFR 416.927(a)(1).

...Evidence that you submit or that we obtain may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of your impairment(s), including your symptoms, diagnosis and prognosis, what you can still do despite impairment(s), and your physical or mental restrictions. 20 CFR 416.927(a)(2).

...In deciding whether you are disabled, we will always consider the medical opinions in your case record together with the rest of the relevant evidence we receive. 20 CFR 416.927(b).

After we review all of the evidence relevant to your claim, including medical opinions, we make findings about what the evidence shows. 20 CFR 416.927(c).

...If all of the evidence we receive, including all medical opinion(s), is consistent, and there is sufficient evidence for us to decide whether you are disabled, we will make our determination or decision based on that evidence. 20 CFR 416.927(c)(1).

...If any of the evidence in your case record, including any medical opinion(s), is inconsistent with other evidence or is internally inconsistent, we will weigh all of the evidence and see whether we can decide whether you are disabled based on the evidence we have. 20 CFR 416.927(c)(2).

[As Judge]...We are responsible for making the determination or decision about whether you meet the statutory definition of disability. In so doing, we review all of the medical findings and other evidence that support a medical source's statement that you are disabled.... 20 CFR 416.927(e).

...A statement by a medical source that you are "disabled" or "unable to work" does not mean that we will determine that you are disabled. 20 CFR 416.927(e).

...If you have an impairment(s) which meets the duration requirement and is listed in Appendix 1 or is equal to a listed impairment(s), we will find you disabled without considering your age, education, and work experience. 20 CFR 416.920(d).

...If we cannot make a decision on your current work activities or medical facts alone and you have a severe impairment, we will then review your residual functional capacity and the physical and mental demands of the work you have done in the past. If you can still do this kind of work, we will find that you are not disabled. 20 CFR 416.920(e).

If you cannot do any work you have done in the past because you have a severe impairment(s), we will consider your residual functional capacity and your age, education, and past work experience to see if you can do other work. If you cannot, we will find you disabled. 20 CFR 416.920(f)(1).

...Your residual functional capacity is what you can still do despite limitations. If you have more than one impairment, we will consider all of your impairment(s) of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions, as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based on all of the relevant evidence.... 20 CFR 416.945(a).

...This assessment of your remaining capacity for work is not a decision on whether you are disabled, but is used as the basis for determining the particular types of work you may be able to do despite your impairment(s).... 20 CFR 416.945(a).

...In determining whether you are disabled, we will consider all of your symptoms, including pain, and the extent to which your symptoms can reasonably be accepted as consistent with objective medical evidence, and other evidence.... 20 CFR 416.929(a).

...In evaluating the intensity and persistence of your symptoms, including pain, we will consider all of the available evidence, including your medical history, the medical signs and laboratory findings and statements about how your symptoms affect you... We will then determine the extent to which your alleged functional limitations or restrictions due to pain or other symptoms can reasonably be accepted as consistent with the medical signs and laboratory findings and other evidence to decide how your symptoms affect your ability to work.... 20 CFR 416.929(a).

If you have more than one impairment, we will consider all of your impairments of which we are aware. We will consider your ability to meet certain demands of jobs, such as physical demands, mental demands, sensory requirements, and other functions as described in paragraphs (b), (c) and (d) of this section. Residual functional capacity is an assessment based upon all of the relevant evidence. This assessment of your capacity for work is not a decision on whether you are disabled but is used as a basis for determining the particular types of work you may be able to do despite your impairment. 20 CFR 416.945.

...When we assess your physical abilities, we first assess the nature and extent of your physical limitations and then determine your residual functional capacity for work activity on a regular and continuing basis. A limited ability to perform certain physical demands of work activity, such as sitting, standing, walking, lifting, carrying, pushing, pulling, or other physical functions (including manipulative or postural functions, such as reaching, handling, stooping or crouching), may reduce your ability to do past work and other work. 20 CFR 416.945(b).

Federal regulations require that the Department use the same operative definition for “disabled” as used for Supplemental Security Income (SSI) under Title XVI of the Social Security Act. 42 CFR 435.540(a).

“Disability” is:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months ... 20 CFR 416.905

In determining whether an individual is disabled, 20 CFR 416.920 requires the trier of fact to follow a sequential evaluation process by which current work activity, the severity of the impairment(s), residual functional capacity, and vocational factors (i.e., age, education, and work experience) are assessed in that order. When a determination that an individual is or is not disabled can be made at any step in the sequential evaluation, evaluation under a subsequent step is not necessary.

Step 1

First, the trier of fact must determine if the individual is working and if the work is substantial gainful activity. 20 CFR 416.920(b). At Step 1, the Claimant is not engaged in substantial gainful activity and has not worked since April 2013. Therefore, the Claimant is not disqualified from receiving disability at Step 1.

Step 2

Secondly, in order to be considered disabled for purposes of MA, a person must have a severe impairment. 20 CFR 416.920(c). A severe impairment is an impairment which significantly limits an individual’s physical or mental ability to perform basic work activities. Basic work activities means, the abilities and aptitudes necessary to do most jobs. Examples of these include:

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;
- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

The purpose of the second step in the sequential evaluation process is to screen out claims lacking in medical merit. *Higgs v. Bowen* 880 F2d 860, 862 (6th Cir, 1988). As a result, the Department may only screen out claims at this level which are "totally groundless" solely from a medical standpoint. The *Higgs* court used the severity requirement as a "*de minimus* hurdle" in the disability determination. The *de minimus* standard is a provision of a law that allows the court to disregard trifling matters.

The objective medical evidence on the record further substantiates the Administrative Law judge findings.

On [REDACTED], the Claimant was seen at [REDACTED] as a result of flank pain. The Claimant stated she was called with the results from being seen at [REDACTED], eight days ago with similar symptoms that she was told that she had three kidney stones and an infection. The Claimant had essentially normal physical examination. [REDACTED], she had normal mood and affect. The Claimant had a final diagnosis of left flank pain, history of kidney stones, lower urinary tract infection, and kidney stones. Department Exhibit A7- A11.

On [REDACTED], the Claimant was seen at [REDACTED] for a presentation complaint of abdominal pain. The Claimant was diagnosed with mild gastritis. Department Exhibit A19-A21.

On [REDACTED], the Claimant was seen by her treating specialist at the [REDACTED]. The Claimant's was seen for a six month recheck on allergic rhinitis and asthma. The Claimant had an essentially normal physical examination. The Claimant stated that she had pain in the neck area. She had chest tightening and coughing. She had cardiovascular system palpitation combined with gastrointestinal system nausea and vomiting. She stated she had arthritis and back pain. In addition, she had migraine headaches. She stated that her skin was itching on her face, arms, and legs. On [REDACTED], the Claimant's nose was red and swollen in the turbinates. There was no a discharge present or polyps, masses, or sinus tenderness. The Claimant's lungs were clear bilaterally. There were no rhonchi, wheezing, or rales. The Claimant's clinical assessment was allergic rhinitis, moderate to severe persistent asthma, and acute sinusitis unspecified. Department Exhibit A50-A54.

On [REDACTED], the Claimant was seen for an [REDACTED] for a [REDACTED]. The Claimant was diagnosed with posttraumatic stress disorder, bipolar II disorder, obsessive-compulsive disorder, bulimia, resolving, and Alcohol Dependence, sustained partial remission with a tier II diagnosis of Borderline Personality Disorder. The Claimant was given a GAF of 56 with a poor prognosis. The Claimant is not able to manage her benefit funds because of her impulsive spending during her hypomanic episodes. The Claimant drove herself to her assessment and came alone both times. She was on time. All fine and gross motor skills are age-appropriate. Her gait and posture were within normal limits. The Claimant reported having problems with vision and hearing. Her speech was understandable on the date of this assessment. She was

cooperative, verbal, friendly, and engage in the assessment process. Her clothing was clean and neat. Her grooming and hygiene were good. The Claimant appeared to have good contact with reality. Her speed of motor activity was normal. She was pleasant. The Claimant reported being autonomous. She appeared to be over reporting her levels of depression and anxiety on the days that she was seen. The Claimant was very verbal, but logical and organized. The Claimant denied having hallucinations or delusions. She denied being prosecuted. The Claimant denied others controlling her thoughts or that she had any unusual powers. She did report feelings of worthlessness, hopelessness, and guilt. The Claimant reported somatic difficulties including pain, problems with sleep, and difficulties with appetite, fatigue, and weakness. The Claimant was oriented to person, time, and place. From a [REDACTED], the Claimant could understand and follow simple instructions and could perform simple routine task. She would have difficulty handling work pressure and stress. The Claimant could communicate with coworkers, customers, or supervises. She is in need of ongoing psychiatric/psychological treatment. Her medical problems need to be fully evaluated with regard to her [REDACTED] Department Exhibit P-U.

On [REDACTED], the Claimant was seen by an [REDACTED]. The Claimant's chief complaints were right knee scoped, disc disease, asthma, PTSD, anxiety, migraines, bipolar, bilateral eyes, low back, ulcers and stomach, IBS, and kidney stones. The Claimant had in essentially normal physical examination. She was obese. There was no evidence of joint laxity or effusion. She did have tenderness over the last sacroiliac joint. Crepitus is apparent in the bilateral knees and bilateral ankles. The Claimant walks with a guarded gate with a mild limp on the left without the use of an assistive device. Romberg testing was negative. The independent medical examiner conclusions were that the Claimant did have mild paravertebral spasms in the lumbar spine. She did complain of associated knee pain, but her range of motion was stable. The Claimant did have moderate difficulty doing squats. She does compensate with a mild left limp, but does appear stable enough not to need an assistive device. At this point, weight reduction and range of motion exercises would be indicated. She does not appear to require operative intervention for her back per se. The Claimant's lungs fields were clear today. She is on inhaler therapy and continued avoidance of triggers would be indicated for her asthma. There was no flank tenderness today or findings of renal failure. She has had multiple lithotripsies in the past. At this point, fluid intake and supportive care would be indicated. Department Exhibit K-0.

At Step 2, the objective medical evidence in the record indicates that the Claimant has established that she has a severe impairment. The Claimant has rhinitis and asthma that is controlled by medications and avoidance of triggers. She is morbidly obese that results in mild physical limitations. The Claimant was mentally limited in performing skilled detailed work, but should be able to perform simple and unskilled, light work. Therefore, the Claimant is not disqualified from receiving disability at Step 2. However, this Administrative Law Judge will proceed through the sequential evaluation process to determine disability because Step 2 is a *de minimus* standard.

Step 3

In the third step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment (or combination of impairments) is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. This Administrative Law Judge finds that the Claimant's medical record will not support a finding that Claimant's impairment(s) is a "listed impairment" or equal to a listed impairment. See Appendix 1 of Subpart P of 20 CFR, Part 404, Part A. Accordingly, Claimant cannot be found to be disabled based upon medical evidence alone. 20 CFR 416.920(d). This Administrative Law Judge finds that the Claimant's impairments do not rise to the level necessary to be listed as disabling by law. Therefore, the Claimant is disqualified from receiving disability at Step 3.

Step 4

Can the Claimant do the former work that she performed within the [REDACTED] If yes, the Claimant is not disabled.

In the fourth step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment(s) prevents Claimant from doing past relevant work. 20 CFR 416.920(e). It is the finding of this Administrative Law Judge, based upon the medical evidence and objective, physical and psychological findings that the Claimant testified that she does perform a few of her daily living activities. The Claimant does feel that her condition has worsened because her DDD and Keratosis that will result in the lost eyesight. The Claimant stated that she has mental impairments where she is taking medications and in [REDACTED] where she just started. She does not [REDACTED]. The Claimant has not or has ever used illegal or illicit drugs or smoked cigarettes. The Claimant did not know if there was any work she could do.

At Step 4, this Administrative Law Judge finds that the Claimant has not established that she cannot perform any of her prior work. Her past employment was as file clerk, which is performed at the simple, unskilled level. The Claimant may have issues with performing past employment as an [REDACTED], which is considered semi-skilled work with her mental impairments. The Claimant is capable of performing at least simple, unskilled, light work. Therefore, the Claimant is disqualified from receiving disability at Step 4. However, the Administrative Law Judge will still proceed through the sequential evaluation process to determine whether or not the Claimant has the residual functional capacity to perform some other less strenuous tasks than in her prior jobs.

Step 5

In the fifth step of the sequential consideration of a disability claim, the trier of fact must determine if the Claimant's impairment(s) prevents Claimant from doing other work. 20 CFR 416.920(f). This determination is based upon the Claimant's:

- (1) residual functional capacity defined simply as “what can you still do despite your limitations?” 20 CFR 416.945;
- (2) age, education, and work experience, 20 CFR 416.963-.965; and
- (3) the kinds of work which exist in significant numbers in the national economy which the Claimant could perform despite his/her limitations. 20 CFR 416.966.

...To determine the physical exertion requirements of work in the national economy, we classify jobs as sedentary, light, medium, heavy, and very heavy. These terms have the same meaning as they have in the Dictionary of Occupational Titles, published by the Department of Labor.... 20 CFR 416.967.

Sedentary work. Sedentary work involves lifting no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 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. Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. 20 CFR 416.967(a).

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the 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.... 20 CFR 416.967(b).

...To be considered capable of performing a full or wide range of light work, you must have the ability to do substantially all of these activities. If someone can do light work, we determine that he or she can also do sedentary work, unless there are additional limiting factors such as loss of fine dexterity or inability to sit for long periods of time. 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Unskilled work. Unskilled work is work which needs little or no judgment to do simple duties that can be learned on the job in a short period of time. The job may or may not require considerable strength.... 20 CFR 416.968(a).

The objective medical evidence on the record is sufficient that the Claimant lacks the residual functional capacity to perform some other less strenuous tasks than in her previous employment or that she is physically unable to do any tasks demanded of her. The Claimant's testimony as to her limitation indicates her limitations are exertional and non-exertional.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C).

In the instant case, the Claimant testified that she has [REDACTED], and [REDACTED]. She is taking medications and in therapy that she just started. There were no medical records submitted for analysis. See MA analysis step 2. The Claimant's independent [REDACTED] showed that there was evidence of a mental impairment, but no thought disorder. She was given a GAF of 56, which showed moderate symptoms. The medical evidence on the record is sufficient to support a mental impairment that is so severe to prevent the Claimant from performing skilled, detailed work, but the Claimant should be able to perform simple, unskilled work.

At Step 5, the Claimant can meet the physical requirements of light work, based upon the Claimant's physical abilities. Under the Medical-Vocational guidelines, a young individual with a high school education, and an unskilled and semi-skilled work history, who is limited to light work, is not considered disabled. 20 CFR 404, Subpart P, Appendix 2, Rule 202.20. The Medical-Vocational guidelines are not strictly applied with non-exertional impairments such as [REDACTED], and [REDACTED] 20 CFR 404, Subpart P, Appendix 2, Section 200.00. Using the Medical-Vocational guidelines as a framework for making this decision and after giving full consideration to the Claimant's mental and physical impairments, the Administrative Law Judge finds that the Claimant could perform simple, unskilled, light work and that the Claimant does not meet the definition of disabled under the MA program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled not disabled for purposes of the MA benefit program.

DECISION AND ORDER

Accordingly, the Department's determination is **AFFIRMED**.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/16/14

Date Mailed: 7/17/14

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 Claimant;
- 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.

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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

CGF/tb

cc:

