

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-18384
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Wayne (35)

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 May 21, 2014, from Redford, Michigan. Participants included the above-named Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED] [REDACTED] Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's application for Medical Assistance (MA) 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 (see Exhibits 13-14), including retroactive MA benefits from 2/2013 (see Exhibits 11-12).
2. Claimant's only basis for MA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibit 18-19).

4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action (Exhibits 16-17) informing Claimant's authorized representative of the denial.
5. On [REDACTED], Claimant's AHR requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation which found that Claimant did not have a severe impairment.
7. On [REDACTED], an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A44) at the hearing.
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 additional documents considered and forwarded by SHRT.
11. 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 90 days from the date of hearing.
12. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 201.28.
13. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
14. As of the date of the administrative hearing, Claimant was a 43-year-old female with a height of 5'4" and weight of 350 pounds.
15. Claimant has no known relevant history of alcohol or illegal substance abuse.
16. Claimant's highest education year completed was the 12th grade.
17. As of the date of the administrative hearing, Claimant was a Medicaid recipient since 5/2014.
18. Claimant alleged disability based on impairments including anxiety and neuropathy.

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).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, an in-person hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

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. "Current" work activity is interpreted to include all time since the date of application. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

Claimant credibly denied performing any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Based on the presented evidence, it is found that Claimant is not performing SGA and has not performed SGA since the date of MA 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 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 a summary of the relevant submitted medical documentation.

Hospital documents (Exhibits 155-180) from an admission [REDACTED] were presented. It was noted that Claimant was transferred for psychiatric treatment following a miscarriage. It was noted that Claimant expressed suicidal ideation. Axis I diagnoses of bipolar disorder, psychosis, and altered thought process were noted. A history of medication non-compliance was noted. A discharge date of [REDACTED] was noted. Claimant's GAF at discharge was noted to be 45.

A Psychiatric Evaluation (Exhibits 74-83) dated [REDACTED] were provided. The evaluation was completed by a psychiatrist from a treating mental health agency. It was noted that Claimant reported being diagnosed with bipolar disorder in 1983. It was noted that Claimant stopped taking medications in 2010. It was noted that Claimant felt better after recently restarting psychiatric medications. Noted observations of Claimant included the following: orientation x4, no reported hallucinations, improving mood, good hygiene, cooperative behavior, anxious affect, goal directed and well organized speech, and

organized thought content. A recommendation of individual therapy was noted. An Axis I diagnosis of bipolar disorder was noted. Claimant's GAF was noted to be 55. A guarded prognosis was noted. Current medications included the following: Xanax, Lisinopril, Seroquel, HCTZ, Levothyroxine, Metformin, Novolog, and Omerprazole.

Various Medication Reviews (Exhibits 39-73; 104-117; 120-153) from Claimant's treating mental health agency were presented. Appointments from [REDACTED] and [REDACTED] were documented. Unless summarized below, the reviews contained no new notable information.

A Medication Review (Exhibits 141-144) dated [REDACTED] was presented. It was noted that Claimant attempted group therapy but felt overwhelmed by the number of people. It was noted that Claimant was able to drive to the supermarket without a panic attack. It was noted that Claimant was easily brought to tears.

A Medication Review (Exhibits 39-43) dated [REDACTED] was presented. It was noted that Claimant was labile and dramatic and sought psychiatric hospitalization; Claimant's request was noted as denied. It was noted that Claimant had increased stress because her 14-year-old son began living with her. A plan to increase Claimant's individual therapy was noted.

A Medication Review (Exhibits 44-47) dated [REDACTED] was presented. It was noted that Claimant felt better and adjusted to her son's household presence.

A Medication Review (Exhibits 48-51) dated [REDACTED] was presented. It was noted that Claimant reported urinary problems but felt "much improved".

A hospital discharge summary (Exhibits 182-183) from an admission dated [REDACTED] was presented. It was noted that Claimant presented with complaints of elevated blood sugars and feeling shaky following multiple falls. It was noted that Claimant received various diabetic medication. Noted discharge diagnoses included hyperglycemia and hypothyroidism, and syncope (likely due to metabolic etiology). A discharge date of [REDACTED] was noted.

Hospital documents (Exhibits 32-35) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of high blood sugar and dizziness. It was noted that Claimant was a diabetic and had not taken insulin in months. Gait, strength, and reflexes were noted as normal. A diagnosis of hyperglycemia was noted. It was noted that Claimant received a prescription of insulin and was discharged.

Hospital documents (Exhibits 36-38) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented after an accucheck score of 550. It was noted that Claimant had not taken medication since [REDACTED]. Discharge instructions were not provided.

A Medication Review (Exhibits 65-68) dated [REDACTED] was presented. It was noted that Claimant reported sleep difficulties. It was noted that Claimant was taken off of Seroquel due to diabetes complications.

A Medication Review (Exhibits 69-73; A29-A33) dated [REDACTED] was presented. It was noted that Claimant reported not sleeping for six days. It was noted that Claimant wanted to restart Seroquel because “they help me better” and it’s the only medication that helps her sleep.

A Psychiatric Evaluation (Exhibits A1-A6) dated [REDACTED] was presented. The evaluation was completed by a psychiatrist from Claimant’s treating mental health agency. It was noted that Claimant reported doing well and feeling much better. It was noted that Claimant’s last substance abuse was 2010. Claimant’s GAF was noted to be 55. Recommended support services included individual therapy and medical treatment. A guarded prognosis was noted.

Various Medication Reviews (Exhibits A8-A28) from Claimant’s treating mental health agency were presented. The reviews document appointments from [REDACTED]. On [REDACTED], it was noted that Claimant was hospitalized for one day after feeling stressed but felt better after taking Seroquel. On [REDACTED], it was noted that Claimant reported poor sleep; it was noted that it was likely due to Claimant drinking a pot of coffee every day.

Hospital documents (Exhibits A34-A43) from an encounter dated [REDACTED] were presented. It was noted that Claimant complained of lower back pain following 2 days of sickness. It was noted that urine tests were performed. A discharge diagnosis of back pain was noted.

Claimant testified that she is restricted to walking of only 1 block before her ankles swell and she loses her breath. Claimant also testified that she is restricted in sitting because she has to elevate her legs. Claimant also testified that she requires use of a cane.

Claimant alleged disability, in part, due to neuropathy. It was verified that Claimant had diabetes and was medication noncompliant for a several month period in 2012. References to neuropathy were not apparent in presented records.

Claimant presented one hospital encounter related to back pain. The encounter failed to document any explanation for Claimant’s back pain. It was not apparent that Claimant’s pain was related to diabetes or spinal dysfunction. No other treatment for back pain was verified.

Hospital records noted that Claimant was morbidly obese (see Exhibit 183). Claimant conceded that her ambulation was limited due to her weight. Presented records failed to establish that Claimant has any physical restrictions related to a medical reason. It is found that Claimant failed to establish a physically-based severe impairment. The evidence was more compelling concerning psychological impairments.

Claimant established a multi-year history of psychiatric treatment. Difficulties related to anxiety and social interactions were noted. Previous suicidal ideation and ongoing daily struggles were also noted.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. Accordingly, Claimant established having a severe impairment and the disability analysis may move to step three.

The third step of the sequential analysis requires a determination whether the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. 20 CFR 416.920 (a)(4)(iii). If Claimant's impairments are listed and deemed to meet the 12 month requirement, then the claimant is deemed disabled. If the impairment is unlisted, then the analysis proceeds to the next step.

Claimant's most prominent impairment appears to be mood swings associated with bipolar disorder. Bipolar disorder is an affective disorder covered by Listing 12.04 which reads as follows:

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

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

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

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or

- g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
- h. Hallucinations, delusions or paranoid thinking

OR

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

AND

B. Resulting in at least two of the following:

- 1. Marked restriction of activities of daily living; or
- 2. Marked difficulties in maintaining social functioning; or
- 3. Marked difficulties in maintaining concentration, persistence, or pace; or
- 4. Repeated episodes of decompensation, each of extended duration

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

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

Claimant's GAF was regularly noted to be 55. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that 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. Claimant's GAF is indicative of less than marked restrictions.

Generally, psychiatric hospitalizations are persuasive evidence of marked restrictions. Claimant had one psychiatric hospitalization, two years ago, at a time when she was medically-noncompliant. The hospitalization lasted 4 days. Evidence since the hospitalization noted consistently improved functioning by Claimant. It is found that Claimant failed to meet the listing for affective disorders.

A listing for anxiety-related disorders (Listing 12.06) was considered based on Claimant's complaints of anxiety. 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 had a complete inability to function outside of the home.

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 reported that she worked from 199-2000 as a nurse's aide. Claimant testified that her duties included bathing, feeding, and clothing patients. Claimant testified that anxiety and neuropathy would prevent her from returning her to employment.

Claimant testified that she also worked from 2009-2010 as a credit card service representative. Claimant testified that she could perform her past employment if she did not have to deal with stressful customers.

For purposes of this decision, it will be found that Claimant cannot perform 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.*

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)

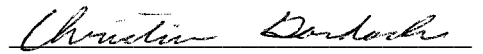
The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's circumstances, as indicated by the findings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

At step two, it was determined that Claimant had no physically-based severe impairments; it was also determined that Claimant had an unspecified degree of social and anxiety-based restrictions. At step three, it was determined that Claimant had less than marked restrictions. Based on Claimant's reported symptoms, Claimant would be capable of performing employment of a relatively low-stress variety.

Based on Claimant's exertional work level (all), age (younger individual aged 18-44), education (high school), employment history (semi-skilled with no transferrable skills), Medical-Vocational Rule 204.00 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of MA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's MA benefit application dated [REDACTED], including retroactive MA benefits from 2/2013, based on a determination that Claimant is not disabled. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 8/22/2014

Date Mailed: 8/22/2014

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]

AH

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