

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-21295
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, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], HF.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA-P) and retroactive MA-P benefit programs?

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 19, 2013, the Claimant applied for MA-P with a retroactive application for MA-P to June 2013.
2. On October 16, 2013, the Medical Review Team (MRT) denied the Claimant's application for MA-P and retroactive MA-P stating that the Claimant's impairment lacks duration of 12 months per 20 CFR 416.909.
3. On October 17, 2013, the Department Caseworker sent the Claimant a notice that his application was denied.

4. On January 8, 2014, the Department received a hearing request from the Claimant, contesting the Department's negative action.
5. On February 26, 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. There was a Social Security Administration Disability Determination Examination dated [REDACTED]. A review of the evidence presented supports that diligence has been given with regards to addressing the allegations, duration, and vocational issues put forth in the medical packet for this from the Department of Human Services Office of Administrative Hearing. Listings 1.02/04/06, 5.05, 11.08/14/18, and 12.02/04/06.
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 Local Office on May 6, 2014 and forwarded to SHRT for review on May 7, 2014.
7. On June 3, 2014 the 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 less than [REDACTED] and a history of gainful employment. The Claimant is not currently engaged in substantial gainful activity (SGA) based on the information in the file. The Claimant's impairments do not meet/equal the intent or severity of a Social Security listing. The medical evidence on the record indicates that the Claimant retains the capacity to perform a wide range of light, simple, repetitive work. Therefore, based on the Claimant's vocational profile [REDACTED], [REDACTED], and history of employment), MA-P is denied using Vocational Rule 202.17 per 20 CFR 416.920 (e&g) as a guide. Retroactive MA-P was considered in this case and is also denied.
8. The Claimant is a [REDACTED] year-old [REDACTED] whose date of [REDACTED]. The Claimant is 6'6" tall and weighs 230 pounds. The Claimant has [REDACTED]. The Claimant can read and write and perform basic math. The Claimant was last employed as a [REDACTED] the medium level VII [REDACTED] which is his pertinent work history.
9. The Claimant's alleged impairments are traumatic brain injury, cognitive disorder, PTSD, [REDACTED], left shoulder dislocated, and learning disorder.

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, 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). 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 [REDACTED]. 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’s treating physician submitted a [REDACTED] on behalf of the Claimant. The Claimant was first examined on [REDACTED] and last examined on [REDACTED]. The Claimant had a history of impairments in chief complaint of right displaced tibia and fibula fracture from [REDACTED]. The Claimant has a current diagnosis of a fracture as previously noted and mild, traumatic, brain injury. The Claimant was in a wheelchair and walked with a walker for short distances. The Claimant was stable. He could not meet his needs in the home because of intermittent assist and wound care. Department Exhibit 16-17.

On [REDACTED], the Claimant was seen by independent medical examiner at [REDACTED] for an [REDACTED]. The Claimant was diagnosed with a cognitive disorder, NOS, with several features of post-traumatic stress disorder. In addition, the Claimant had depression, NOS, and personality changes secondary to [REDACTED], and learning disorder, NOS. There was no evidence of a personality disorder detected. He was given a GAF of 55 with a guarded prognosis the Claimant is able to manage his benefit for small transactions, but not for large scale financials. He has limited motor activity for the out of his wheelchair. He was somewhat anxious, and depressed but not severely so. He had a constricted affect and showed a degree of clinical nervousness and depression, but was able to be friendly and optimistic. He admitted to his experience of depression since the accident and loss of numerous abilities and uncertain nature, as well as anxiousness about the same. Some areas of new information processing are notably slow and inefficient. His abilities to respond appropriately to others, including co-workers and supervisors, and adapt to changes in

a work setting, as well as perform work-related activities in a reliable, consistent, and persistent manner, are opined to be moderately impacted. Department Exhibit O-A1.

On [REDACTED], the Claimant [REDACTED] of [REDACTED] sent a letter on behalf of the Claimant. The Claimant's treating specialist has been providing [REDACTED] sense the Claimant [REDACTED] when he had an accident with an automobile. The Claimant was seen at [REDACTED] for a severe than fracture of the distal tibia and fibula. The major component will extend it approximately 2-thirds of the circumference of the leg and was very deep. There was a second compound and will that was over the anterior aspect of the leg about 3 inches in length. The Claimant went through multiple surgical debridements. After that, it took seven weeks to actually be able to internally fix the bone. Up until the bone was fake, but Claimant was held in an external fixator up until that time, the Claimant was held in an external fixator. He was hospitalized throughout this time. At this time, the fracture appears to be healed and they were removing the external support. He still has significant disability because of his leg. I don't believe he is going to be able to work for at least 12 to 18 months from the time of injury, which would make it unlikely that he will return to work in 2014. Department Exhibit A.

On [REDACTED], the Claimant sought his treating [REDACTED]. He is developing some motion in his right ankle about 10° on either side of neutral at this point. He does have his foot flat. He is walking almost without a limp today. Department Exhibit B.

On [REDACTED], the Claimant was seen as a follow-up by his treating orthopedic specialist. The Claimant was walking very well now. He has good ankle motion. His foot and leg look normal. [REDACTED] of his right leg, which were obtained in the office today show good healing of the fracture. Department Exhibit B.

At Step 2, the objective medical evidence in the record indicates that the Claimant has established that he has a severe impairment. The Claimant has been diagnosed with mental impairments where he had a traumatic brain injury as a result of the accident cause and cognitive deficits. The Claimant does have some physical impairment from the accident of the fracture to the right leg, but there are still some physical limitations. 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 he performed within the last 15 years? 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 he does perform some of his daily living activities. The Claimant does feel that his condition has worsened because of spaciness and lightheadedness has gotten worse. The Claimant stated that he has mental impairments where he is not taking medications and in therapy because of no insurance. The Claimant does not or has ever smoked cigarettes. He stopped drinking in 2012 where before he's drank one bottle of Mike's hard lemonade. The Claimant does not or has ever used illegal or illicit drugs. The Claimant did not know what type of job he could do.

At Step 4, this Administrative Law Judge finds that the Claimant has established that he cannot perform any of his prior work. His past employment was as a certified and licensed mechanic at the heavy level. The Claimant injured his right leg and even though it is healing nicely he would be unable to perform heavy work at the current time. In addition, the Claimant suffered a [REDACTED] [REDACTED] resulting in cognitive disorders. As a result, the Claimant is not capable of performing his past work. Therefore, the Claimant is not 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 his 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 you 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 his previous employment or that he is physically unable to do any tasks demanded of him. The Claimant's testimony as to his limitation indicates his limitations are non-exertional and 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 he has depression, traumatic brain injury, cognitive disorder, and posttraumatic stress disorder. He is not taking medications and not in therapy. See MA analysis step 2. The Claimant's independent psychological examination showed cognitive deficits and limitations. He was given a GAF of 55, 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 and maybe simple, unskilled work without treatment and medication.

At Step 5, the Claimant cannot meet the physical requirements of light work, based upon the Claimant's physical abilities. Under the Medical-Vocational guidelines, a younger individual with a high school education, and a skilled work history, who is limited to light work, is 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 depression, traumatic brain injury, cognitive disorder, and posttraumatic stress disorder. 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 not perform simple, unskilled, light work and that the Claimant does meet the definition of disabled under the MA program.

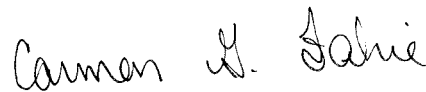
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant disabled for purposes of the MA benefit program.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of the Claimant's eligibility for MA-P based on the Claimant's July 19, 2013 application with MA-P with retroactive MA-P to June 2013 with a medical review required in September 2016 .
2. Provide the Claimant and his authorized representative with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.



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

Date Signed: 8/26/14

Date Mailed: 8/26/14

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.

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:

