

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001173
Issue No.: 2009; 4009
Case No.: [REDACTED]
Hearing Date: July 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 July 21, 2014, from Redford, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's sister, 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) and State Disability Assistance (SDA) for the reason that Claimant is not a disabled individual.

FINDINGS OF FACT

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

1. On [REDACTED], Claimant applied for MA and SDA benefits.
2. Claimant's only basis for MA and SDA benefits was as a disabled individual.
3. On [REDACTED], the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 6-7).
4. On [REDACTED] DHS denied Claimant's application for MA and SDA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On [REDACTED], Claimant's former AHR requested a hearing disputing the denial of MA and SDA benefits.
6. On [REDACTED], SHRT determined that Claimant was not a disabled individual, in part, by reliance on a Disability Determination Explanation (Exhibits 43-57) which determined that Claimant can perform past relevant employment.
7. On [REDACTED], an administrative hearing was held.
8. During the hearing, the record was extended 30 days to allow Claimant to submit hospital and radiology documents; an Interim Order Extending the Record was subsequently mailed to Claimant.
9. On [REDACTED], Claimant submitted additional documents.
10. As of the date of the administrative hearing, Claimant was a 56 year old male with a height of 5'11" and weight of 135 pounds.
11. Claimant has a relevant history of alcohol abuse.
12. Claimant's highest education year completed was the 12th grade.
13. As of the date of the administrative hearing, Claimant was an ongoing Healthy Michigan Plan recipient.
14. Claimant alleged disability based on impairments and issues including right leg pain, lower back pain, anxiety, and depression.

CONCLUSIONS OF LAW

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

It should be noted that Claimant's Request for Hearing listed that Claimant had an AHR. The AHR named on Claimant's request for Hearing did not appear for the hearing. Claimant testified that he wanted his sister who appeared for the hearing to be his AHR. During the hearing, Claimant's sister accepted the responsibility of being Claimant's AHR. Claimant's sister who appeared for the hearing will be recognized as Claimant's AHR.

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.*, p. 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.*, p. 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.

An ultrasound report of Claimant's abdomen (Exhibit A4) dated [REDACTED] was presented. An impression of no acute abnormality was noted.

A CT report of Claimant's pelvis (Exhibit A5) dated [REDACTED] was presented. An impression of colonic diverticulosis was noted.

An x-ray report of Claimant's chest (Exhibits A6-A7) dated [REDACTED] was presented. An impression of COPD with no acute cardiopulmonary process was noted. An impression of no bowel obstruction was also noted.

Progress notes (Exhibits 15-17; 35-37) dated [REDACTED] were presented. It was noted that Claimant presented for treatment of leg pain and depression. It was noted that Claimant drank beer every day. It was noted that Claimant asked "upwards of 15x" for Norco medication. Assessments of chronic pain and uncontrolled hypertension were noted.

Progress notes (Exhibits 13-14; 33-34) dated [REDACTED] were presented. It was noted that Claimant presented for complaints of left hip, back, and leg pain. A complaint of anxiety was also noted. It was noted that Claimant quit drinking alcohol since his last visit. A physical examination noted no tenderness on palpitation on back. Upon visual inspection, an enlarged liver was noted.

Physician progress noted (Exhibits 13,33) dated [REDACTED] were presented. Noted current problems included the following: chronic pain, essential HTN, depression, anxiety, and BMI less than 19.

A Psychological Evaluation (Exhibits 18-24) dated [REDACTED] was presented. The evaluation was noted as completed by a consultative licensed psychologist. It was noted that Claimant's information was exaggerated though this appeared to be an unintended statement based on the context of other statements made by the examiner. It was noted that Claimant complained of depression, ongoing for 1 year since Claimant's wife left him. It was noted that Claimant stopped using alcohol in 7/2013. Claimant also reported anxiety, ongoing for 6 years. It was noted that Claimant was hospitalized in 2013 after he made a suicidal statement. It was noted that Claimant lost his home in 8/2013 and now lives between his two sisters' homes. Noted examiner

observations of Claimant included the following: preoccupied with loss of his wife, not distracted with external stimuli, clear thoughts, coherent and logical, normal speech, little eye contact, difficulty with simple addition and subtraction, and difficulty maintaining concentration. Axis I diagnoses of major depressive disorder and alcohol dependence were noted. Claimant's GAF was noted to be 55. Noted recommendations were that Claimant has marked impairments in getting along with coworkers due to severe depression and a lack of interest in socializing. It was also noted that Claimant did not have the ability to pay attention and concentrate due to depression. It was noted that Claimant did not have the ability to take care of his finances.

A physical examination report (Exhibits 25-32) dated [REDACTED] was presented. The report was noted as completed by a consultative physician. It was noted that Claimant presented with complaints of right knee pain, anxiety, and insomnia. It was noted that Claimant reported being alcohol-free, ongoing for 5 months. It was noted that Claimant's right knee showed evidence of stiffness and a well-healed scar from an open reduction and internal fixation surgery. An x-ray report of Claimant's knee noted no acute abnormalities. An x-ray report of Claimant's back noted minor facetar arthritis at L4-L5. Some spasms in Claimant's back were noted. Subnormal ranges were noted in all tested lumbar motions. The examiner noted that Claimant could perform work-related abilities of sitting, standing, carrying, and bending. It was noted that Claimant could not perform squatting.

Prescription physician statements (Exhibit A9) were presented. The date of statements was not legible but appeared to be dated [REDACTED]. A diagnosis of lower back arthritis was noted following an MRI.

Prescription physician statements (Exhibit A3) were presented. The date of statements was not legible but appeared to be from 8/2014. It was noted that Claimant needed a cane for walking and a knee brace due to right knee pain.

Claimant testified that he has walking and lifting restrictions due to knee pain and back pain. Claimant also testified that he has anxiety which impairs his ability to maintain employment. Claimant's testimony was consistent with the presented evidence. The medical evidence also established that Claimant's restrictions have lasted at least since 11/2013, the first month that Claimant seeks MA benefits. It is found that Claimant has a severe impairment and the analysis may proceed to step three.

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

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's LBP complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for affective disorder (Listing 12.04) was considered based on a diagnosis of depression. A consultative psychologist was supportive that Claimant had marked restrictions in concentration and attention. The restrictions are not taken at face value because of a lack of counseling treatment, a close proximity to Claimant's alcohol abuse, a close proximity to depressing events (loss of home and separation from spouse), and a GAF which is suggestive of moderate restrictions. A psychological examination report also noted that Claimant reported that he has been hospitalized 8 times for anxiety (see Exhibit 25); no hospital treatments for anxiety were verified. It was also not established that Claimant required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

A listing for anxiety-related disorders (Listing 12.06) was considered based on Claimant's treating physician's diagnosis of an anxiety disorder. 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.

A Medical-Social Questionnaire (Exhibits 8-10) dated [REDACTED] was presented. The form was noted as completed by claimant's sister. Claimant's sister noted that Claimant's past employment was as a crane operator and hi-lo operator. A third job involving a conveyor belt was also listed.

A SSA Work History Report (Exhibits 58-66) dated [REDACTED] was presented. Claimant's employment history listed employment as a hi-lo-driver, metal inspector, and recycling worker.

Claimant's SSA report indicated that each of Claimant's past jobs required stooping and upwards of 50 pounds of lifting. Claimant testified that he is unable to perform the lifting and stooping required of his past employment. Claimant's testimony was consistent with presented evidence. It is found that Claimant is unable to perform past employment and the analysis may proceed to step five.

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

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

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

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

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

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

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

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

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

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform medium employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday. Medium employment requires comparable standing and walking standards, but with a heavier lifting requirement than light employment.

Physician statements of specific restrictions were not presented. Specific restrictions can be inferred based on the presented medical evidence.

It was established that Claimant was prescribed a cane and right knee brace. Use of a cane and knee brace is generally consistent with an inability to perform medium employment.

A disability finding is hindered due to the general lack of radiological support for Claimant's lumbar and knee complaints. For example, Claimant's sister stated that Claimant cries due to back pain. The testimony is suggestive of significant abnormalities. Minor facetar arthritis at L4-L5 was verified by radiology, however, such a diagnosis is not so untreatable or severe that it is likely to cause recurring crying spells.

Some degree of abnormality was verified through physical examination when spasms and restricted ranges of motions were noted.

Similarly, right knee radiology essentially found no abnormalities though there was a verified history of past surgery which could reasonably cause arthritis. The early stage of arthritis is understood to not necessarily be visible on x-ray. Claimant's complaints were at least somewhat verified by a physical examination finding of stiffness.

A finding of disability is also hindered by the general lack of treatment to improve restrictions. Typical back treatments include the following: chiropractic adjustments, steroid injections, surgical options, or physical therapy. Claimant failed to present any treatment for back pain. Similarly, psychological impairments were verified but treatment was not. Claimant's failure to pursue back pain treatment and/or counseling may be attributable to Claimant's lack of insurance until the month before hearing.

The overall evidence was not compelling, however, there was sufficient evidence of knee and back restrictions to suggest that medium employment is improbable. Claimant's employment prospects would be further hindered by moderate social and concentration restrictions. It is found that Claimant is capable of performing simple light employment involving few social interactions.

Based on Claimant's exertional work level (light), age (advanced age), education (high school with no direct entry into skilled employment), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 202.06 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found Claimant to be not disabled for purposes of MA benefits.

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

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

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

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

Id.

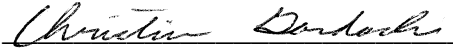
It has already been found that Claimant is disabled for purposes of MA benefits based on application of Medical-Vocational Rule 202.06. The analysis and finding applies equally for Claimant's SDA benefit application. It is found that Claimant is a disabled individual for purposes of SDA eligibility and that DHS improperly denied Claimant's application for SDA benefits.

DECISION AND ORDER

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

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

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


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

Date Signed: 9/23/014

Date Mailed: 9/23/2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

