

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-006682
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: October 13, 2014
County: Wayne (15)

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, a telephone hearing was held on October 13, 2014 from Detroit, 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] Medical Contact Worker.

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, including retroactive MA benefits from 11/2013.
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 Exhibits 3-4).
4. On [REDACTED], DHS denied Claimant's application for MA benefits and mailed a Notice of Case Action informing Claimant of the denial.

5. On [REDACTED] Claimant's AHR requested a hearing disputing the denial of MA benefits.
6. On [REDACTED], an administrative hearing was held.
7. During the hearing, both parties waived the right to receive a timely hearing decision.
8. During the hearing, the record was extended 42 days for Claimant to submit Medical Examination Reports and/or treating physician documents; DHS was given an additional 3 days to present any written objections to the admission of documents and an Interim Order Extending the Record was subsequently mailed to both parties.
9. On [REDACTED] Claimant submitted additional documents. (Exhibits B1-B13)
10. As of the date of the administrative hearing, Claimant was a 60 year old male with a height of 5'7" and weight of 185 pounds.
11. Claimant has no known relevant history of alcohol or illegal substance abuse.
12. Claimant's highest education year completed was the 11th grade.
13. As of the date of the administrative hearing, Claimant was a Healthy Michigan Plan recipient since 5/2014 and an Adult Medical Program recipient in 2013.
14. Claimant alleged disability based on impairments and issues including neck pain, shoulder pain, back pain, and an anal fistula.

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 a 3-way telephone 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.*, 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 and Claimant testimony.

Claimant testified, in 10/2013, he fell while walking up a flight of stairs. Claimant testified that he was carrying a 50-60 pound box of bowling balls at the time of his fall. Claimant testified that he has since experienced neck, back, and shoulder pain.

Hospital documents (Exhibits 26-47; 95-99; 110-111) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of right-sided abdomen and rectal pain, ongoing for 1 year. It was noted that ointments and sitz baths did not relieve pain. A diagnosis of anal fissure was noted. Claimant was given medications and advised to return for follow-up.

Hospital physician documents (Exhibits 5-7; 13; 18-1; 91) dated [REDACTED] were presented. It was noted that Claimant underwent a lateral sphincterectomy. No surgery complications were noted. A discharge date of 11/20/13 was noted.

A Medical Examination Report (Exhibits 107-109) dated [REDACTED] was presented. The form was completed by a family practice physician with an approximate 5 year history of treating Claimant. Claimant's physician listed diagnoses of anal fissures and lumbar pain. Physical examination findings noted a positive straight leg raising test. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs.

A Disability Certificate (Exhibit 112) dated [REDACTED] from a treating physician was presented. It was noted that Claimant was unable to return to work for the period from [REDACTED] due to pain. A restriction of no lifting over 15 pounds was noted.

Hospital documents (Exhibits 9-12; 14-17; 20-25; 92-93) from an admission dated [REDACTED] were presented. A diagnosis of anal fissure was noted. It was noted that

Claimant underwent a fissurectomy and excision of hemorrhoid. A two-week follow-up appointment was noted. A discharge date of [REDACTED] was noted.

An internal medicine examination report (Exhibits 83-90) dated [REDACTED] was presented. The report was completed by a consultative physician. It was noted that Claimant reported the following: joint pain, back pain, bone pain, chronic headaches (3-4 times per week), left shoulder pain and numbness related to a fall in 10/2013. Claimant's gait was described as slow (with use of a cane). Heel and toe walk were noted as slow. Decreased ranges of motion were noted in the following: lumbar flexion, left shoulder abduction, left shoulder forward elevation, and bilateral hip flexion. It was noted that Claimant was able to perform all 23 listed work-related activities (e.g. standing, bending, stooping, pushing, carrying...), but all with pain. Impressions of chronic back pain, left shoulder pain, and neck pain were noted. A physician appointment dated [REDACTED] 4 for headache treatment was noted.

An x-ray report (Exhibits A17-A18; B13-B14) dated [REDACTED] was presented. It was noted that x-rays were taken of Claimant's left shoulder and thoracic spine. Very minimal degenerative spurring at the acromioclavicular joint was noted. Occasional spurs were noted in Claimant's thoracic spine.

Physician office visit documents (Exhibits A3-A4) dated [REDACTED] were presented. It was noted that Claimant presented for anal fissure follow-up. Pain and swelling was noted at the site of previous surgery. It was noted there was not much improvement with diltiazem cream.

An Operative Report (Exhibits A9; A15-A16) dated [REDACTED] was presented. It was noted that Claimant underwent a fistulotomy. It was noted that Claimant had an extra anal opening of the fistula.

A physician office visit document (Exhibit A5) dated [REDACTED] were presented. It was noted that Claimant experienced post-operative pain. It was noted that Claimant would need rectal mucosal advancement flap surgery in the near future.

A physician office visit document (Exhibit A6) dated [REDACTED] were presented. It was noted that Claimant was doing well though some drainage was noted.

A physician office visit document (Exhibit A7) dated [REDACTED] were presented. It was noted that Claimant was doing well, but some pain was reported.

Hospital documents (Exhibits A10-A14) from an encounter dated [REDACTED] were presented. A diagnosis of anal fistula was noted. It was noted that Claimant underwent anorectal advancement flap surgery.

A physician office visit document (Exhibit A8) dated [REDACTED] were presented. It was noted that Claimant underwent rectal advancement flap surgery. No problems were noted. A 4-week follow-up was noted.

Sports medicine physician treatment documents (Exhibits B1-B4) dated [REDACTED] were presented. It was noted that Claimant complained of back and shoulder pain radiating to his left arm (pain level 7/10), ongoing for 11 months. Physical examination findings included the following: maximum tenderness of left paraspinal and scalene muscles, axial compression, decreased lateral forearm motion, and positive Spurling's testing. Left shoulder range of motion was slightly less than right shoulder. Assessments of cervical radicular pain and thoracic outlet syndrome were noted. A plan of further x-rays was noted.

Rehabilitation physician documents (Exhibits B11-B13) dated [REDACTED] were presented. It was noted that Claimant had guarded range of motion of his left shoulder. It was noted that Claimant had "a little bit of Spurlings". Following EMG and nerve conduction study, Claimant's strength and neurology were noted as normal. It was noted that there was no evidence of cervical radiculopathy on the left. It was noted that Claimant "certainly" experienced a myofascial component of pain.

Sports medicine physician treatment documents (Exhibits B5-B8) dated [REDACTED] were presented. It was noted that Claimant presented for treatment of ongoing chronic radiating neck pain. Physical examination findings were generally unchanged since 9/2014. A plan of a cervical spine MRI was noted. A referral to physical therapy was noted. Claimant's physician stated, "The problem is severe."

Presented medical documents verified non-neurological problems with Claimant's neck and left shoulder. Presented medical documents also verified ongoing problems involving an anal fistula. The presented evidence sufficiently verified some degree of lifting/carrying, ambulation, and sitting restrictions. The evidence also tended to verify restrictions which have, or will have, lasted longer than 12 months.

It is found that Claimant established having a severe impairment. Accordingly, the disability analysis may move to step three.

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

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

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 inflammatory bowel syndrome (Listing 5.06) was considered based on anal fistula treatment. The listing was rejected due to a failure to establish bowel disease causing pain which is uncontrolled by pain medication.

A listing for chronic skin infections (Listing 8.04) was considered based on fistula treatment. The listing was rejected due to a failure to establish extensive fungating or extensive ulcerating skin lesions that persist for at least 3 months despite continuing prescribed treatment.

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 testified that he has past work experience working at a bowling store. Claimant testified that he is unable to perform the lifting/carrying required of his store employment.

Claimant testified that he was most recently self-employed as a retail bowling supplier. Claimant testified that he works out of his house. Claimant testified that he performs a lot of telephone sales, but that he also has to perform deliveries requiring significant lifting/carrying, which he can no longer perform.

Claimant's testimony that he is no longer able to perform past jobs was credible and consistent with presented medical evidence. It is found that Claimant cannot perform past relevant employment and the analysis may proceed to step five.

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

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

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

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

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

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

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

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

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

Claimant alleged disability in part, due to an anal fistula. A fistula is understood to be a severe form of an abscess causing an unnatural tunnel from an infected gland to a skin opening. The evidence was suggestive that Claimant has some degree of restriction due to an anal fistula. The evidence was not clear to what extent that Claimant was restricted.

It was verified that Claimant underwent rectal advancement flap surgery. The surgery is understood to only involve complex fistulas. The surgery requires replacing the infected area with a flap of tissue taken from the anus. Though Claimant's particular fistula appears to be problematic, there is little documentary evidence that the flap surgery was unsuccessful.

Claimant presented evidence of treatment after 8/2014, just not anal fistula treatment. The absence of verified treatment following [REDACTED] is suggestive that surgery resolved most of Claimant's restrictions. Claimant would likely have some small degree of recurring anal pain. This consideration is suggestive that Claimant has only minor lingering restrictions.

On a Medical Examination Report dated [REDACTED] Claimant's physician did not provide sitting or standing restrictions. An absence of sitting or standing restrictions (especially pre-surgery) is consistent with finding that Claimant's pain and/or discomfort was minimal outside of a period from 11/2013-8/2014.

Claimant's physician opined that Claimant was restricted to frequent lifting/carrying of less than 10 pounds and occasional lifting up to 25 pounds, never more than 50 pounds. The restrictions were persuasive, given Claimant's medical history. The

restrictions were consistent with an ability to perform light employment, but not medium employment.

Claimant's physician also opined that Claimant was restricted from performing repetitive reaching or pushing/pulling. The restrictions were reasonable given Claimant's "severe" cervical spine dysfunction.

DHS did not present vocational evidence of what employment opportunities Claimant may perform given pushing/pulling and reaching restrictions. Cashier, stockperson and assembler are jobs that Claimant would likely be unable to perform. Presumably, Claimant could perform employment requiring more walking and little use of arms (e.g. security guard). The evidence was sufficient to justify finding that Claimant is unable to work a full range of light employment, but not to the point that light employment is an unreasonable expectation.

In summary, Claimant is capable of performing light employment, not medium employment, due to lifting restrictions. Claimant's employment opportunities are further limited by an inability to perform repetitive pushing/pulling and reaching. Claimant is further restricted due to pain, mostly myofascial pain of the left shoulder, but also a smaller degree of post-surgery anal fistula pain. Claimant's ability to stand and/or sit is relatively intact. Before medical-vocational rules can be applied, a final consideration of the transferability of Claimant's job skills must be performed.

As noted in step four, Claimant has several years of sales experience. Generally, sales skills are transferable. The abilities to market, listen, organize, remain persistent, and schmooze are abilities employed by any good salesperson. One would expect an excellent car salesperson to be comparably capable of also selling electronics, clothes, or radio station air time. This consideration makes it highly tempting to find that Claimant's skills are transferable.

Claimant estimated that he profited approximately \$9,000-\$10,000 in 2012. The relatively small amount of income is consistent with finding that Claimant was not a particularly skilled salesperson. Claimant's employment appears to be based on some knowledge of a product and access to wholesalers. The evidence was not particularly compelling that Claimant had salesperson skills that would transfer to other jobs. It is found that Claimant's sales skills are not transferable.

Based on Claimant's exertional work level (light), age (advanced age), education (limited), employment history (semi-skilled with no transferable skills), Medical-Vocational Rule 202.02 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.

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 benefits. It is ordered that DHS:

- (1) reinstate Claimant's MA benefit application dated [REDACTED], including retroactive MA benefits from 11/2013;
- (2) evaluate Claimant's eligibility for MA 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

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

Date Signed: **12/4/2014**

Date Mailed: **12/4/2014**

CG / hw

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 48909-8139

CC:

