

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-14130  
Issue No(s): 2009  
Case No.: [REDACTED]  
Hearing Date: March 18, 2014  
County: Mecosta County DHS

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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, a telephone hearing was held on March 18, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

**ISSUE**

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

**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 September 12, 2013, Claimant applied for Medicaid (MA-P).
2. On October 30, 2013, the Medical Review Team (MRT) found Claimant not disabled.
3. On October 31, 2013, the Department notified Claimant of the MRT determination.
4. On November 15, 2013, the Department received Claimant's timely written request for hearing.
5. On February 7, 2014, the State Hearing Review Team (SHRT) found Claimant not disabled.
6. Claimant alleged multiple physical disabling impairments including: heart stent, chest pains, headaches, neck problem, high blood pressure, interrupted sleep, numbness of limbs, lower back pain, left knee problem, and rectal pain.

7. Claimant alleged mental disabling impairments due to anxiety and attention deficit.
8. At the time of hearing, Claimant was 49 years old with a [REDACTED] birth date; was 5'10.5" in height; and weighed 180 pounds.
9. Claimant has a high school diploma and an employment history of working in factories.
10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

### **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 defined as 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(a). The person claiming a physical or mental disability has the burden to establish it 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 416.913. 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). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

When determining disability, the federal regulations require several factors to be considered including: (1) the location/duration/frequency/intensity of an applicant's pain; (2) the type/dosage/effectiveness/side effects of any medication the applicant takes to relieve pain; (3) any treatment other than pain medication that the applicant has received to relieve pain; and (4) the effect of the applicant's pain on his or her ability to do basic work activities. 20 CFR 416.929(c)(3). The applicant's pain must be assessed to determine the extent of his or her functional limitation(s) in light of the objective medical evidence presented. 20 CFR 416.929(c)(2).

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an

individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

If an individual is found disabled, or not disabled, at any step, a determination or decision is made with no need evaluate subsequent steps. 20 CFR 416.920(a)(4). If a determination cannot be made that an individual is disabled, or not disabled, at a particular step, the next step is required. 20 CFR 416.920(a)(4). If an impairment does not meet or equal a listed impairment, an individual's residual functional capacity is assessed before moving from step three to step four. 20 CFR 416.920(a)(4); 20 CFR 416.945. Residual functional capacity is the most an individual can do despite the limitations based on all relevant evidence. 20 CFR 416.945(a)(1). An individual's residual functional capacity assessment is evaluated at both steps four and five. 20 CFR 416.920(a)(4). In determining disability, an individual's functional capacity to perform basic work activities is evaluated and if found that the individual has the ability to perform basic work activities without significant limitation, disability will not be found. 20 CFR 416.994(b)(1)(iv). In general, the individual has the responsibility to prove disability. 20 CFR 416.912(a). An impairment or combination of impairments is not severe if it does not significantly limit an individual's physical or mental ability to do basic work activities. 20 CFR 416.921(a). The individual has the responsibility to provide evidence of prior work experience; efforts to work; and any other factor showing how the impairment affects the ability to work. 20 CFR 416.912(c)(3)(5)(6).

As outlined above, the first step looks at the individual's current work activity. In the record presented, the Claimant is not involved in substantial gainful activity therefore is not ineligible for disability benefits under Step 1.

The severity of the Claimant's alleged impairment(s) is considered under Step 2. The Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairments. In order to be considered disabled for MA purposes, the impairment must be severe. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(b). An impairment, or combination of impairments, is severe if it significantly limits an individual's physical or mental ability to do basic work activities regardless of age, education and work experience. 20 CFR 416.920(a)(4)(ii); 20 CFR 416.920(c). Basic work activities means the abilities and aptitudes necessary to do most jobs. 20 CFR 416.921(b). Examples 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.

*Id.*

The second step allows for dismissal of a disability claim obviously lacking in medical merit. *Higgs v Bowen*, 880 F2d 860, 862 (CA 6, 1988). The severity requirement may still be employed as an administrative convenience to screen out claims that are totally groundless solely from a medical standpoint. *Id.* at 863 *citing Farris v Sec of Health and Human Services*, 773 F2d 85, 90 n.1 (CA 6, 1985). An impairment qualifies as non-severe only if, regardless of a Claimant's age, education, or work experience, the impairment would not affect the Claimant's ability to work. *Salmi v Sec of Health and Human Services*, 774 F2d 685, 692 (CA 6, 1985).

In the present case, Claimant alleges disability due multiple impairments, including: heart stent, chest pain, headaches, neck problem, high blood pressure, interrupted sleep, numbness of limbs, lower back pain, left knee problem, rectal pain, anxiety and attention deficit.

Dental records show a history of tooth pain, abscess, extractions, and caries. (Exhibit 2, pages 19-24)

On April 28, 2011, Claimant was seen at an Emergency Room for acute and chronic back pain. (Exhibit 2, pages 1-6)

On September 5, 2011, Claimant was seen at an Emergency Room for left shoulder pain after trying to help catch a heavy falling object while helping a friend move. Claimant strained a muscle. (Exhibit 2, pages 52-59)

On September 12, 2011, Claimant was seen at a second Emergency Room for left shoulder strain. (Exhibit 2, apes 8-11)

On October 22, 2011 Claimant was seen at an Emergency Room for right ear pain. (Exhibit 2, pages 48-51)

On November 23, 2011 and November 28, 2011, Claimant was seen at an Emergency Room for toothache/dental pain. (Exhibit 2, pages 40-47)

On November 28, 2011, Claimant was seen at an Emergency Room for dental pain. (Exhibit 2, pages 12-15)

On January 21, 2012, Claimant was seen at an Emergency Room for narcotic withdrawal, trying to get off methadone. (Exhibit 2, pages 36-39)

On April 14, 2012, Claimant was seen at an Emergency Room for headache, but it was documented that he eloped. (Exhibit 2, pages 32-35)

On July 9, 2012, Claimant was seen at an Emergency Room for dental pain. (Exhibit 2, pages 16-18)

On January 22, 2013, Claimant was seen at an Emergency Room for tooth pain due to dental caries. (Exhibit 2, pages 25-31,139-145)

On May 27, 2013, Claimant was seen at an Emergency Room for stuttering chest symptoms for the past few days, a troponin test was positive, and it was expected Claimant would transfer to another hospital. (Exhibit 2, pages 104-138)

A June 3, 2013 radiology report of 2 chest views notes a left anterior descending stent, normal heart size, mediastinum unremarkable, clear lungs, and concludes no acute disease radiographically. (Exhibit 2, page 147)

On June 3, 2013, Claimant was admitted for complaint of chest pain. It was noted Claimant had a non-ST elevation myocardial infarction the prior week and underwent stenting at another facility. It was reported this was the first day Claimant had been out walking, and it was noted that Claimant had not been able to afford all of his medications. It was indicated that Claimant's symptoms were probably noncardiac. However, it was also documented that after admission it became apparent that there were multiple narcotics that Claimant took on the side he did not report, Claimant became very demanding for pain medications, and Claimant ultimately left the hospital against medical advice the evening of the admission. (Exhibit 2, pages 75-103)

On July 8, 2013, Claimant attended a consultative examination. Regarding back and knee pain the physician documented Claimant has some mild diminished range of motion to the left knee but no findings of laxity as well as some tenderness over the facet joints and inner disc space between L5 and S1 but no radicular symptoms. The physician noted Claimant did not have any difficulty doing orthopedic maneuvers, his gait is stable and he appears relatively stable. Continuance of activity and avoidance of heavy repetitive work would be indicated. Regarding coronary disease, the physician noted Claimant continues to complain of chest pain, blood pressure is stable and there are no findings of heart failure. The physician noted some mild emphysematous disease that may be the cause of the chest pain and that tobacco cessation would be indicated. (Exhibit 2, pages 148-153)

As previously noted, Claimant bears the burden to present sufficient objective medical evidence to substantiate the alleged disabling impairment(s). There was no objective medical evidence regarding many of the impairments alleged by Claimant, including: anxiety, attention deficit, neck problem, rectal pain, and numbness of limbs.

As summarized above, Claimant has presented some medical evidence establishing that he does have some physical limitations on his ability to perform basic work activities. The medical evidence has established that the Claimant has an impairment, or combination thereof, that has more than a *de minimis* effect on the Claimant's basic work activities. Further, the impairments have lasted continuously for twelve months; therefore, the Claimant is not disqualified from receipt of MA-P benefits under Step 2.

In the third step of the sequential analysis 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. The evidence confirms recent treatment/diagnosis of dental pain, coronary disease including heart attack with stent placement, as well as back and knee pain.

Listing 1.00 discusses musculoskeletal system impairments. To meet listing 1.02 Major Dysfunction of a Joint(s) the evidence must show gross anatomical deformity (e.g., subluxation, contracture, bony or fibrous ankylosis, instability) and chronic joint pain and stiffness with signs of limitation of motion or other abnormal motion of the affected joint(s), and findings on appropriate medically acceptable imaging of joint space narrowing, bony destruction, or ankylosis of the affected joint(s). With either A) involvement of one major peripheral weight-bearing joint (i.e., hip, knee, or ankle), resulting in inability to ambulate effectively or B) involvement of one major peripheral joint in each upper extremity (i.e., shoulder, elbow, or wrist-hand), resulting in inability to perform fine and gross movements effectively. Listing 1.04 Disorders of the Spine (e.g., herniated nucleus pulposus, spinal arachnoiditis, spinal stenosis, osteoarthritis, degenerative disc disease, facet arthritis, vertebral fracture), resulting in compromise of a nerve root (including the cauda equina) or the spinal cord. With: A) evidence of nerve root compression characterized by neuro-anatomic distribution of pain, limitation of motion of the spine, motor loss (atrophy with associated muscle weakness or muscle weakness) accompanied by sensory or reflex loss and, if there is involvement of the lower back, positive straight-leg raising test (sitting and supine); or B) spinal arachnoiditis, confirmed by an operative note or pathology report of tissue biopsy, or by appropriate medically acceptable imaging, manifested by severe burning or painful dysesthesia, resulting in the need for changes in position or posture more than once every 2 hours; or C) lumbar spinal stenosis resulting in pseudoclaudication, established by findings on appropriate medically acceptable imaging, manifested by chronic nonradicular pain and weakness, and resulting in inability to ambulate effectively. Claimant had two Emergency Room visits in September 2011 for left shoulder muscle strain. The July 8, 2013 consultative examination report addressed back and knee pain, noting only mild diminished range of motion to the left knee but there were no findings of laxity as well as some tenderness over the facet joints and inner disc space between L5 and S1 but no radicular symptoms. The physician noted Claimant did not have any difficulty doing orthopedic maneuvers, his gait is stable and he appears relatively stable. Continuance of activity and avoidance of heavy repetitive work was indicated. The objective medical evidence was not sufficient to meet the criteria of listings 1.02 Major Dysfunction of a Joint(s), 1.04 Disorders of the Spine, or any other 1.00 listing.

Listing 4.00 addresses Cardiovascular System impairments. Listing 4.04B, Ischemic heart disease, with symptoms due to myocardial ischemia, as described in 4.00E3-4.00E7, while on a regimen of prescribed treatment (see 4.00B3 if there is no regimen of prescribed treatment), with one of the following: **A)** sign- or symptom-limited exercise tolerance test demonstrating at least one of the following manifestations at a workload equivalent to 5 METs or less: 1. Horizontal or downsloping depression, in the absence of digitalis glycoside treatment or hypokalemia, of the ST segment of at least -0.10 millivolts (-1.0 mm) in at least 3 consecutive complexes that are on a level baseline in

any lead other than a VR, and depression of at least -0.10 millivolts lasting for at least 1 minute of recovery; or 2. At least 0.1 millivolt (1 mm) ST elevation above resting baseline in non-infarct leads during both exercise and 1 or more minutes of recovery; or 3. Decrease of 10 mm Hg or more in systolic pressure below the baseline blood pressure or the preceding systolic pressure measured during exercise (see 4.00E9e) due to left ventricular dysfunction, despite an increase in workload; or 4. Documented ischemia at an exercise level equivalent to 5 METs or less on appropriate medically acceptable imaging, such as radionuclide perfusion scans or stress echocardiography; or **B**) three separate ischemic episodes, each requiring revascularization or not amenable to revascularization (see 4.00E9f), within a consecutive 12-month period (see 4.00A3e); or **C**) coronary artery disease, demonstrated by angiography (obtained independent of Social Security disability evaluation) or other appropriate medically acceptable imaging, and in the absence of a timely exercise tolerance test or a timely normal drug-induced stress test, an MC, preferably one experienced in the care of patients with cardiovascular disease, has concluded that performance of exercise tolerance testing would present a significant risk to the individual, with both 1 and 2: 1. Angiographic evidence showing: a. 50 percent or more narrowing of a nonbypassed left main coronary artery; or b. 70 percent or more narrowing of another nonbypassed coronary artery; or c. 50 percent or more narrowing involving a long (greater than 1 cm) segment of a nonbypassed coronary artery; or d. 50 percent or more narrowing of at least two nonbypassed coronary arteries; or e. 70 percent or more narrowing of a bypass graft vessel; and 2. Resulting in very serious limitations in the ability to independently initiate, sustain, or complete activities of daily living. The objective evidence in this case documents Claimant had a non-ST elevation myocardial infarction the end of May 2013 and a left anterior descending stent was placed. Claimant has reported further chest pain, but the June 2, 2013 hospital record and the July 8, 2013 consultative exam report indicate the chest pain may be noncardiac. The objective medical evidence was not sufficient to meet the criteria of listing 4.04 Ischemic Heart Disease or any other 4.00 listing.

Ultimately, the objective medical records establish some physical impairments; however, the evidence does not meeting the intent and severity requirements of a listing, or its equivalent. Accordingly, the Claimant cannot be found disabled, or not disabled, at Step 3; therefore, the Claimant's eligibility is considered under Step 4. 20 CFR 416.905(a).

Before considering the fourth step in the sequential analysis, a determination of the individual's residual functional capacity ("RFC") is made. 20 CFR 416.945. An individual's RFC is the most he/she can still do on a sustained basis despite the limitations from the impairment(s). *Id.* The total limiting effects of all the impairments, to include those that are not severe, are considered. 20 CFR 416.945(e).

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. 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 (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty to function 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 this case, the evidence confirms recent treatment/diagnosis of dental pain, coronary disease including heart attack with stent placement, as well as back and knee pain. However, the objective medical evidence does not support the severity of the limitations Claimant described. For example, Claimant's testimony indicated many physical limitations due to the issues related to his left knee and back. The only objective medical evidence addressing the back and knee impairments was the July 8, 2013

Consultative Exam report. The physician documented Claimant has: some mild diminished range of motion to the left knee but no findings of laxity as well as some tenderness over the facet joints and inner disc space between L5 and S1 but no radicular symptoms. The physician noted Claimant did not have any difficulty doing orthopedic maneuvers, his gait is stable and he appears relatively stable. Continuance of activity and avoidance of heavy repetitive work would be indicated. Claimant's testimony regarding the severity of limitations from his impairments cannot be found fully credible. After review of the entire record and considering the Claimant's testimony, it is found, at this point, that Claimant maintains the residual functional capacity to perform at least light work as defined by 20 CFR 416.967(b).

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 he/she can perform past relevant work. *Id.*; 20 CFR 416.960(b)(3). 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).

Claimant's prior employment was in factories. Claimant testified he bounced around in factories, but all required mostly standing for an 8 hour shift and lifting about 25-30 pounds. Claimant's past factory work would be categorized as medium work given this lifting requirement. As noted above, the objective evidence does not support the severity of most of the limitations Claimant described, but does support a RFC of light work. In light of the entire record and Claimant's RFC, it is found that Claimant is not able to perform past relevant work. Accordingly, Claimant cannot be found disabled, or not disabled, at Step 4.

In Step 5, an assessment of Claimant's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 49 years old and, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school diploma. Claimant has an employment history of factory work. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). 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).

In this case, the evidence confirms recent treatment/diagnosis of dental pain, coronary disease including heart attack with stent placement, as well as back and knee pain.

However, the objective medical evidence does not support the severity of most of the limitations Claimant described. In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis to meet the physical and mental demands required to perform at light work as defined in 20 CFR 416.967(b).

After review of the entire record, and in consideration of the Claimant's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 202.20, Claimant is found not disabled at Step 5.

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 not disabled for purposes of the MA benefit program.

**DECISION AND ORDER**

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



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Colleen Lack  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 9, 2014

Date Mailed: April 9, 2014

**NOTICE OF APPEAL:** The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

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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

CL/hj

cc:

