

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201414222
Issue No.: 2009, 4031
Case No.: [REDACTED]
Hearing Date: January 15, 2014
County: MA Spectrum

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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, three-way telephone hearing was held on January 15, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's Authorized Hearing Representative (AHR)) and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Medical Contact Worker).

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA-P), Retro MA and State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. On October 4, 2013, Claimant filed an application for Medical Assistance and State Disability Assistance benefits alleging disability.
2. On October 24, 2013, the Medical Review Team (MRT) denied Claimant's application.
3. On October 25, 2013, the Department caseworker sent Claimant notice that her application was denied.
4. On November 4, 2013, Claimant filed a request for a hearing to contest the Department's action.

5. On November 18, 2013, the MRT, following a review of additional records, again denied Claimant's application.
6. On November 27, 2013, the MRT, following an additional review, indicated that a consultative examination was needed to determine Claimant's psychiatric condition.
7. On January 10, 2014, the MRT, following a third review, denied Claimant's application and indicated that Claimant was capable of performing other work under Medical Vocational Rule 201.27.
8. A three-way telephone conference hearing was held on January 15, 2014.
9. Claimant has alleged the following disabling impairments: heart problems, breathing problems, anxiety, anti-social behaviors and ADHD.
10. At the time of the hearing, Claimant was 29 (twenty-nine) years old with a birth date of [REDACTED], stood 5'3" tall and weighed approximately 170 (one-hundred and seventy) pounds (lbs).
11. Claimant has a high school education with no previous employment history.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Pursuant to Federal Rule 42 CFR 435.540, the Department uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the MA program. Under SSI, 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

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. Claimant's impairment must result from anatomical, physiological, or psychological

abnormalities which can be shown by medically acceptable clinical and laboratory diagnostic techniques. A physical or mental impairment must be established by medical evidence consisting of signs, symptoms, and laboratory findings, not only the claimant's statement of symptoms. 20 CFR 416.908; 20 CFR 416.927. Proof must be in the form of medical evidence showing that the claimant has impairment and the nature and extent of its severity. 20 CFR 416.912. Information must be sufficient to enable a determination as to the nature and limiting effects of the impairment for the period in question, the probable duration of the impairment and the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913.

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and (3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c). A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e). Statements about pain or other symptoms do not alone establish disability. 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. There must be medical signs and laboratory findings which demonstrate a medical impairment.... 20 CFR 416.929(a).

...Medical reports should include –

- (1) Medical history.
- (2) Clinical findings (such as the results of physical or mental status examinations);
- (3) Laboratory findings (such as blood pressure, X-rays);
- (4) Diagnosis (statement of disease or injury based on its signs and symptoms).... 20 CFR 416.913(b).

The law does not require an applicant to be completely symptom free before a finding of lack of disability can be rendered. In fact, if an applicant's symptoms can be managed

to the point where substantial gainful activity can be achieved, a finding of not disabled must be rendered.

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

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 (e.g. 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 there is a finding that an individual is disabled or not disabled at any point in the review, there will be no further evaluation. 20 CFR 416.920.

At step one, the Administrative Law Judge must determine whether the claimant is engaging in substantial gainful activity (20 CFR 404.1520(b) and 416.920(b)). Substantial gainful activity (SGA) is defined as work activity that is both substantial and gainful. "Substantial work activity" is work activity that involves doing significant physical or mental activities (20 CFR 404.1572(a) and 416.972(a)). "Gainful work activity" is work that is usually done for pay or profit, whether or not a profit is realized (20 CFR 404.1572(b) and 416.972(b)). Generally, if an individual has earnings from employment or self-employment above a specific level set out in the regulations, it is presumed that he or she has demonstrated the ability to engage in SGA (20 CFR 404.1574, 404.1575, 416.974, and 416.975). If an individual engages in SGA, he or she is not disabled regardless of how severe his or her physical or mental impairments are and regardless of his or her age, education, and work experience. If the individual is not engaging in SGA, the analysis proceeds to the second step.

At step two, the Administrative Law Judge must determine whether the claimant has a medically determinable impairment that is "severe" or a combination of impairments that is "severe" (20 CFR 404.1520(c) and 416.920(c)). An impairment or combination of impairments is "severe" within the meaning of the regulations if it significantly limits an individual's ability to perform basic work activities. An impairment or combination of impairments is "not severe" when medical and other evidence establish only a slight abnormality or a combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work (20 CFR 404.1521 and 416.921; Social Security Rulings (SSRs) 85-28, 96-3p, and 96-4p). If the claimant does not have a severe medically determinable impairment or combination of impairments, he or she is not disabled.

For mental disorders, severity is assessed in terms of the functional limitations imposed by the impairment. Functional limitations are assessed using the criteria in paragraph (B) of the listings for mental disorders (descriptions of restrictions of activities of daily living, social functioning; concentration, persistence, or pace; and ability to tolerate increased mental demands associated with competitive work).... 20 CFR, Part 404, Subpart P, App. 1, 12.00(C). First, an individual's pertinent symptoms, signs and laboratory findings are evaluated to determine whether a medically determinable mental impairment exists. 20 CFR 416.920a(b)(1). When a medically determinable mental impairment is established, the symptoms, signs and laboratory findings that substantiate the impairment are documented to include the individual's significant history, laboratory findings, and functional limitations. 20 CFR 416.920a(e)(2). Functional limitations are assessed based upon the extent to which the impairment(s) interferes with an individual's ability to function independently, appropriately, effectively and on a sustained basis. 20 CFR 416.920(a)(2). Chronic mental disorders, structured settings, medication and other treatment, and the effect on the overall degree of functionality are considered. 20 CFR 416.920a(c)(1). In addition, four broad functional areas (activities of daily living; social functioning; concentration, persistence or pace; and episodes of decompensation) are considered when determining an individual's degree of functional limitation. 20 CFR 416.920a(c)(4).

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). 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 determining disability under the law, the ability to work is measured. An individual's functional capacity for doing basic work activities is evaluated. If an individual has the ability to perform basic work activities without significant limitations, he or she is not considered disabled. 20 CFR 416.994(b)(1)(iv).

Basic work activities are the abilities and aptitudes necessary to do most jobs. Examples of these include --

- (1) Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;
- (2) Capacities for seeing, hearing, and speaking;
- (3) Understanding, carrying out, and remembering simple instructions;
- (4) Use of judgment;

- (5) Responding appropriately to supervision, co-workers and usual work situations; and
- (6) Dealing with changes in a routine work setting. 20 CFR 416.921(b).

At step three, the Administrative Law Judge must determine whether the claimant's impairment or combination of impairments meets or medically equals the criteria of an impairment listed in 20 CFR Part 404, Subpart P, Appendix 1 (20 CFR 404.1520(d), 404.1525, 404.1526, 416.920(d), 416.925, and 416.926). If the claimant's impairment or combination of impairments meets or medically equals the criteria of a listing and meets the duration requirement (20 CFR 404.1509 and 416.909), the claimant is disabled. If it does not, the analysis proceeds to the next step.

Before considering step four of the sequential evaluation process, the Administrative Law Judge must first determine the claimant's residual functional capacity (20 CFR 404.1520(e) and 416.920(e)). An individual's residual functional capacity is his/her ability to do physical and mental work activities on a sustained basis despite limitations from his/her impairments. In making this finding, all of the claimant's impairments, including impairments that are not severe, must be considered (20 CFR 404.1520(e), 404.1545, 416.920(e), and 416.945; SSR 96-8p).

Next, the Administrative Law Judge must determine at step four whether the claimant has the residual functional capacity to perform the requirements of his or her past relevant work (20 CFR 404.1520(f) and 416.920(f)). The term past relevant work means work performed (either as the claimant actually performed it or as it is generally performed in the national economy) within the last 15 (fifteen) years or 15 (fifteen) years prior to the date that disability must be established. In addition, the work must have lasted long enough for the claimant to learn to do the job and have been SGA (20 CFR 404.1560(b), 404.1565, 416.960(b), and 416.965). If the claimant has the residual functional capacity to do his or her past relevant work, the claimant is not disabled. If the claimant is unable to do any past relevant work or does not have any past relevant work, the analysis proceeds to the fifth and last step.

At the last step of the sequential evaluation process (20 CFR 404.1520(g) and 416.920(g)), the Administrative Law Judge must determine whether the claimant is able to do any other work considering his or her residual functional capacity, age, education, and work experience. If the claimant is able to do other work, he or she is not disabled. If the claimant is not able to do other work and meets the duration requirements, he or she is disabled.

To determine the physical demands (exertional requirements) of work in the national economy, we classify jobs as sedentary, light, medium and heavy. These terms have the same meaning as they have in the *Dictionary of Occupational Titles*, published by the Department of Labor. 20 CFR 416.967. The terms are defined as follows:

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

Light work. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying of objects weighing up to 10 pounds. Even though the weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls.... 20 CFR 416.967(b).

Medium work. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. If someone can do medium work, we determine that he or she can also do sedentary and light work. 20 CFR 416.967(c).

Heavy work. Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. If someone can do heavy work, we determine that he or she can also do medium, light, and sedentary work. 20 CFR 416.967(d).

The analysis begins at Step 1. Claimant is not engaged in substantial gainful activity and reportedly has no prior employment history. Therefore, Claimant is not disqualified from receiving disability at Step 1 and the analysis proceeds to Step 2.

At Step 2, Claimant's symptoms are evaluated to see if there is an underlying medically determinable physical or mental impairment(s) that could reasonably be expected to produce Claimant's pain or other symptoms. This must be shown by medically acceptable clinical and laboratory diagnostic techniques. Once an underlying physical or mental impairment(s) has been shown, the Administrative Law Judge must evaluate the intensity, persistence, and limiting effects of Claimant's symptoms to determine the extent to which they limit Claimant's ability to do basic work activities. For this purpose, whenever statements about the intensity, persistence, or functionally limiting effects of pain or other symptoms are not substantiated by objective medical evidence, a finding on the credibility of the statements based on a consideration of the entire case record must be made.

In the present case, Claimant alleges disability due to heart problems, breathing problems, anxiety, anti-social behaviors and ADHD. The medical evidence in this record indicates that Claimant has a history of congenital cardiovascular disease. At 10 months of age, Claimant had transposition of the great vessels which was surgically repaired. When she was 5 years old, Claimant required a thoracotomy for repair coarctation of her aorta.

The medical records showed that Claimant started reporting episodes of shortness of breath in her late 20s. Claimant had a diagnostic cardiac catheterization on [REDACTED] which did not indicate the need for surgery for the venous pathways. However, the cardiologist believed she needed repair of the tricuspid valve. On [REDACTED], Claimant underwent a diagnostic cardiac catheterization which showed that her tricuspid valve had severe regurgitation that required surgical intervention.

Claimant had surgery to repair her tricuspid valve on [REDACTED]. The procedure went well without complications. Claimant did well post-operatively. She had a chest x-ray which showed “stable cardiomegaly with no vascular congestion or interstitial edema. . . The lungs are clear. No pleural process.” Claimant was discharged from the hospital on [REDACTED] in good condition. Her discharge instructions included for her to continue home exercises and continue daily activity such as walking or climbing stairs.

On [REDACTED], Claimant had an echocardiography to evaluate her tricuspid valve. This report indicated moderate right ventricular enlargement, mildly depressed right ventricular systolic function, LV chamber size measured small by m-mode, ventricular septum bowed into left ventricle, mild tricuspid regurgitation, and mean gradient across tricuspid valve was 7 mmHg.

Claimant had a psychological/psychiatric assessment on [REDACTED] which indicated she had social phobia (Axis I), major depression-single episode moderate (Axis II) and for Axis V a GAF of 40. Claimant’s therapy records demonstrated that she had multiple fears and worries. She also had trouble sleeping. Claimant has severe social anxiety. She sits in a corner by herself in social settings (even when around family members). Claimant seldom smiles, laughs or talks to her mother.

On [REDACTED], Claimant had a disability mental status exam. This report indicated that Claimant lived at home with her mother and sometimes speaks with her father who lives in Florida. She does not have any friends, does not date and is not a member of any group or social organization. According to the exam report, Claimant spends her time doing puzzles or bead work. She will occasionally watch television, but she does not have any other interests or hobbies. She was diagnosed with dysthymic disorder, unspecified anxiety disorder-social anxiety, and a heart condition. Her prognosis was poor given the long-standing nature of her issues.

The objective medical evidence shows that Claimant has a combination of impairments that is “severe” for purposes of Step 2. These records show that Claimant has congenital cardiovascular disease and tricuspid valve regurgitation which results in shortness of breath and fatigue. The objective medical evidence in this matter also reveals that Claimant does have a mental and/or emotional impairment that can fairly be characterized as “severe” for purposes of the Step 2 analysis. This evidence shows that Claimant has a medically determinable mental impairment based on documented signs, symptoms, and laboratory findings that substantiate the impairment. The impairment is

severe social anxiety disorder and social phobia. The objective medical evidence shows that Claimant's social anxiety has been there throughout her life. Claimant has anxiety as well which causes her to worry almost continuously. Claimant has difficulty with concentration such that she lacks the ability to tolerate increased mental demands associated with competitive work. Claimant lacks the ability to function in a structured setting. Claimant's overall functioning is compromised because her emotional/mental impairments are so severe that she is unable to have normal verbal communication with family members. Accordingly, Claimant would be unable to understand, carry out, and remember simple instructions. Claimant also cannot respond appropriately to supervision, co-workers and usual work situations. In addition, Claimant does not possess the ability to deal with normal changes in a routine work setting. The records show that Claimant's impairments significantly limit her ability to perform basic work activities.

The objective clinical evidence shows that Claimant has physical and mental impairments which have lasted, or can be expected to last, for a continuous period of not less than 12 months.

Claimant has presented medical evidence that demonstrates she has some physical and mental limitations on her ability to perform basic work activities. The medical evidence has established that Claimant has an impairment, or combination of impairments, that has more than a *de minimus* effect on her basic work activities. Further, the impairments have lasted continuously for 12 (twelve) months; therefore, Claimant is not disqualified from receiving MA-P benefits at Step 2.

The analysis proceeds to Step 3 where the medical evidence of Claimant's condition(s) is compared to the listings. In light of the medical evidence, listings 4.06 (symptomatic congenital heart disease) and 12.06 (anxiety-related disorders) are considered. In the third step of the sequential analysis of a disability claim, the trier of fact must determine if Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404.

Based on the above objective medical evidence, Claimant's anxiety, social phobia, and congenital heart disease do meet or medically equal the criteria of a listing because she meets 12.06.

For listing **12.06 (anxiety-related disorders)**, anxiety is either the predominant disturbance or it is experienced if the individual attempts to master symptoms; for example, confronting the dreaded object or situation in a phobic disorder or resisting the obsessions or compulsions in obsessive compulsive disorders. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in both A and C are satisfied.

A. Medically documented findings of at least one of the following:

1. Generalized persistent anxiety accompanied by three out of four of the following signs or symptoms:

- a. Motor tension; or
 - b. Autonomic hyperactivity; or
 - c. Apprehensive expectation; or
 - d. Vigilance and scanning; or
2. A persistent irrational fear of a specific object, activity, or situation which results in a compelling desire to avoid the dreaded object, activity, or situation; or
 3. Recurrent severe panic attacks manifested by a sudden unpredictable onset of intense apprehension, fear, terror and sense of impending doom occurring on the average of at least once a week; or
 4. Recurrent obsessions or compulsions which are a source of marked distress; or
 5. Recurrent and intrusive recollections of a traumatic experience, which are a source of marked distress;

AND

B. Resulting in at least two of the following:

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

OR

C. Resulting in complete inability to function independently outside the area of one's home.

Here, Claimant meets listing 12.06 because the objective documentation shows she has vigilance and scanning, apprehensive expectation and autonomic hyperactivity. She has a persistent irrational fear of going out in public which results in a compelling desire to avoid contact with the public. Claimant also exhibits marked restriction in daily activities and marked difficulties in maintaining social functioning.

In addition, Claimant meets the duration requirement because these conditions will continue for at least 12 months. Ultimately, the objective medical records establish mental impairments; these records meet the intent and severity requirements of a

listing, or its equivalent. Because Claimant does have an impairment that meets or medically equals the criteria of 12.06, she meets the Step 3 requirement.

The fourth step in analyzing a disability claim requires an assessment of the individual's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). Claimant has never worked. As such, there is no past work for Claimant to perform, nor are there past work skills to transfer to other work occupations. This Administrative Law Judge finds that Claimant is unable to perform any type of work based on the nature of her severe social phobia condition. The objective findings show that Claimant's prognosis is poor for social functioning in a work setting due to the long-standing nature of her social phobia and anxiety. After review of the entire record to include Claimant's credible testimony, this Administrative Law Judge finds that Claimant is not able to maintain the physical and mental demands necessary to perform even limited sedentary work as defined by 20 CFR 416.967(a).

This Administrative Law Judge finds sufficient evidence in this record that demonstrates Claimant is unable to perform any relevant work. Because the record evidence shows that Claimant is unable to do any relevant work, the analysis proceeds to the fifth and final step.

At Step 5, this Administrative Law Judge must determine whether or not Claimant has the residual functional capacity to do any other work in the national economy considering her residual functional capacity, age, education, and work experience. At this point, the burden of proof shifts to the Department. The entire record shows that Claimant is not capable of functioning in a social setting. If she cannot function in a social setting, she certainly could not work in one. This Administrative Law Judge finds that the objective medical evidence on the record shows that Claimant has no residual functional capacity. Consequently, Claimant is not disqualified from receiving disability at Step 5 based upon the fact that she has established by objective medical evidence that she cannot perform even sedentary work with her impairments.

Claimant has satisfied the burden of proof to show by competent, material and substantial evidence that she has an impairment or combination of impairments which would significantly limit the physical or mental ability to do basic work activities. 20 CFR 416.920(c). There is objective medical evidence to substantiate Claimant's assertion that her alleged impairments are severe enough to reach the criteria and definition of disability. Claimant is disabled for the purposes of the Medical Assistance disability (MA-P) program.

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

With regard to Claimant's request for disability under the State Disability Assistance (SDA) program, it should be noted that the Department's Bridges Eligibility Manual (BEM) contains policy statements and instructions for caseworkers regarding the SDA program. In order to receive SDA, "a person must be disabled, caring for a disabled person or age 65 or older." BEM, Item 261, p. 1 (July, 2013).

A person is disabled for SDA purposes if he or she: (1) receives other specified disability-related benefits or services¹; or (2) resides in a qualified Special Living Arrangement facility; or (3) is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or (4) is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS). BEM 261 pp 1-2 (July, 2013).

Because Claimant meets the definition of disabled under the MA-P program and because the evidence of record shows that Claimant is unable to work for a period exceeding 90 (ninety) days, Claimant is also disabled for purposes of the SDA program.

The Department has not established by the necessary competent, material and substantial evidence on the record that it acted in compliance with Department policy when it determined that Claimant was not eligible to receive Medical Assistance, Retro Medical Assistance and State Disability Assistance.

DECISION AND ORDER

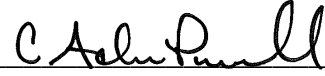
The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is medically disabled as of October, 2013 with retroactive application.

Accordingly, the Department's decision is hereby **REVERSED** and the Department is **ORDERED** to:

1. Initiate a review of the application for MA dated October 4, 2013, if not done previously, to determine Claimant's non-medical eligibility.
2. The Department shall inform Claimant of the determination in writing. A review of this case shall be set for December, 2014.

¹Retirement, Survivors and Disability Insurance (RSDI) due to disability/blindness, Supplemental Security Income (SSI) due to disability/blindness, Medicaid as blind/disabled based on a disability examiner or MRT determination or hearing decision, or Michigan Rehabilitation Services.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 19, 2014

Date Mailed: February 19, 2014

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

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

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

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

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201414222/CAP

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

CAP/aca

cc:

