

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-24044  
Issue No.: 2009  
Case No.: [REDACTED]  
Hearing Date: June 30, 2014  
County: Oakland (04)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on June 30, 2014, from Pontiac, 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], Specialist.

**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 9/2013.
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 8-9).

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], SHRT determined that Claimant was not a disabled individual, in part, by application of Medical-Vocational Rule 203.18.
7. On [REDACTED], an administrative hearing was held.
8. During the hearing, Claimant presented additional medical documents (Exhibits A1-A101).
9. During the hearing, Claimant waived the right to receive a timely hearing decision.
10. During the hearing, Claimant and DHS waived any objections to allow the admission of additional documents considered and forwarded by SHRT.
11. During the hearing, the record was extended 30 days to allow Claimant to submit hospital records from 6/2014; an Interim Order Extending the Record was subsequently mailed to both parties reflecting the record extension.
12. No further documents were received by the Michigan Administrative Hearings System.
13. On [REDACTED], an updated hearing packet was forwarded to SHRT and an Interim Order Extending the Record for Review by State Hearing Review Team was subsequently issued which extended the record 90 days from the date of hearing.
14. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 203.18.
15. On [REDACTED], the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
16. As of the date of the administrative hearing, Claimant was a 51 year old female with a height of 5'7 ½" and weight of 160 pounds.
17. Claimant has a relevant history of substance abuse.
18. Claimant's highest education year completed was the 9<sup>th</sup> grade.

19. As of the date of the administrative hearing, Claimant was a Healthy Michigan plan recipient since 4/2014; before 4/2014, Claimant was an Adult Medical Program recipient since 4/2013.
20. Claimant alleged disability based on impairments and issues including high blood pressure, poor memory, left-sided weakness, headaches, right leg pain, and poor vision.

### **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 hearing 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 (10<sup>th</sup> Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10<sup>th</sup> Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6<sup>th</sup> 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 (1<sup>st</sup> 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 (1<sup>st</sup> 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.

Claimant reported that in 1982, she hit a car while riding her motorcycle (see Exhibit 68). Claimant testified that this contributes to ongoing right knee pain.

A Psychological Evaluation of Mental Status (Exhibits 73-77) dated [REDACTED] was presented. The report was signed by a limited licensed psychologist and licensed

psychologist. It was noted that Claimant reported depression symptoms, ongoing for 10 years. It was also noted that Claimant reported an older mental health history associated with homicidal ideation. It was noted that Claimant admitted a history of polysubstance abuse; it was also noted that Claimant minimized its extent and severity. Examiner observations of Claimant included the following: average intelligence, grossly intact mental capacities, and evidence of diminished memory. Axis I diagnoses of depressive disorder and polysubstance abuse were noted. Claimant's GAF was noted to be 50. A fair prognosis was noted, highly dependent on intervention

An internal medicine examination report (Exhibits 68-72) dated [REDACTED] was presented. The report was completed by a consultative physician. It was noted that the examination was conducted while Claimant waited for a taxi to take her to the hospital. It was noted that Claimant complained of high blood pressure, diabetes, poor vision, and arthritis. It was noted that Claimant controls knee pain with Norco. It was noted that Claimant cannot read or write. Claimant's vision was noted to be correctable with pinhole to 20/80 in the right eye. Claimant's left eye vision was noted to be 20/100, without glasses. It was noted that Claimant had a slow gait that limps to the right. It was noted that Claimant had, mild difficulty getting on and off examination table and that she was unable to perform heel-toe walk or squatting. A very limited right knee motion was noted. Claimant's right knee was described as appearing to be "bone-on-bone". It was noted that Claimant needed a cane for support while ambulating. It was noted that Claimant would likely need a knee replacement. It was noted that Claimant needed better control of medication to treat blood pressure.

Eye testing documents (Exhibits 63-64) dated [REDACTED] were presented. The results were not accompanied by physician analysis.

Hospital documents (Exhibits 24-63) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of headaches, episodes of vomiting and abdominal pain (ongoing for 3 days). A complaint of back pain was also noted. It was noted that radiology revealed some lumbar degenerative changes. It was noted that Claimant did not have a doctor and was medically non-compliant with diabetes. Noted discharge diagnoses included diabetes mellitus and malignant hypertension. A discharge date of [REDACTED] was noted.

Hospital documents (Exhibits A16-A69) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of headaches, blurry vision, and dizziness. It was noted that Claimant was recently instructed to cease blood pressure medication following a low blood pressure reading. Claimant's blood pressure at admission was noted to be in the 200s. It was noted that a brain MRI and head MRA were performed. A diagnosis of cerebrovascular brain accident was noted. It was noted that a cane was provided. Concerning kidney disease, it was noted that Claimant's creatinine levels improved before discharge. A new diagnosis of diabetes was noted. It was noted that Claimant was given Norco to control head pain. A diagnosis status of improving was noted. A discharge date of [REDACTED] was noted.

Physician office visit documents (Exhibit A5) dated [REDACTED] were presented. It was noted that Claimant was a new patient. A recent history of cerebrovascular accident with left-sided hemiparesis was noted. It was noted that Claimant complained of insomnia and right knee pain. It was noted that Claimant had difficulty walking since her stroke.

Physician office visit documents (Exhibits A3-A4) dated [REDACTED] were presented. An assessment of "blood pressure outrageous considering patient's poor renal functioning" was noted; Claimant's blood pressure was 191/120. It was noted that Claimant was strongly advised to control HTN due to advancing kidney disease.

Hospital documents (Exhibits A70-A101) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of abdominal pain, ongoing for 3 days. It was noted that Claimant experienced 10 episodes of vomiting in the days prior to admission. It was noted that Claimant was medication noncompliant and a daily marijuana smoker. It was noted that Claimant was positive for using cocaine, though Claimant denied using cocaine. It was noted that cocaine use and/or medication noncompliance caused the hyper-intensive emergency. It was noted that a CT of Claimant's abdomen was negative. It was noted that Claimant was placed back on blood pressure meds and that abdomen pain subsided. A discharge date of [REDACTED] was noted.

Presented medical records established a history of severe hypertension. Claimant's condition was so bad that it caused a stroke in 9/2013. Claimant's severe hypertension struggles would likely adversely affect Claimant's ambulation and lifting.

Claimant's medical history also established that medical non-compliance and/or drug use were factors in Claimant's health. Claimant testified that she last used cocaine one year ago though medical records verified a more recent usage. During the hearing, Claimant did not mention marijuana use. It is theoretically possible that Claimant was slipped cocaine in her marijuana as she suggested to a hospital in 2/2014 (see Exhibit A70). A more likely scenario is that Claimant minimized her drug usage, as she did with a consultative examiner.

A determination must be made what Claimant's health would be without medical noncompliance and drug abuse. Presumably, Claimant's cocaine abuse was not a significant factor to hospitalizations before 2/2014 because hospital documents did not cite abuse as a factor. Medical noncompliance was noted as a factor in previous hospitalizations.

Claimant testified that she could not afford blood pressure medication. Claimant received insurance from the State of Michigan since 4/2013. Presumably, Claimant's medications cost no more than \$1 each. When factoring Claimant's access to daily marijuana, Claimant's claim of poverty for prescribed medication is extraordinarily unpersuasive.

In determining the impact of noncompliance on a person's health, it is helpful to reference a person's health during periods of compliance. Claimant appeared to have no such periods of medical compliance.

There was a stringent warning by a treating physician stressing the need for medical compliance. Based on the presented evidence, it is probable that Claimant's blood pressure would dramatically improve if Claimant was medication compliant. Thus, Claimant's complaints of recurring headaches (presumed to be caused by high blood pressure in lieu of no evidence to support otherwise) is not found to be a severe impairment.

The only treatment Claimant received for her knee was an afterthought during hospitalizations related to high blood pressure. Radiology of Claimant's knee was not provided. Range of motion restriction was verified by a consultative examiner. A need for a cane was also verified by the examiner, as well as a hospital who issued a cane to Claimant. It is found that Claimant verified ambulation restrictions due to her knee.

Claimant testified that she had left-sided weakness after suffering a stroke. Claimant's testimony was consistent with presented evidence.

The medical evidence established that Claimant's walking and lifting/carrying restrictions have lasted since 9/2013, the first month that Claimant seeks MA benefits. It is found that Claimant has severe impairments and the analysis may proceed to step three.

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

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

A listing for visual acuity (Listing 2.02) was considered based on complaints of poor eyesight. This listing was rejected due to a failure to establish a corrected eyesight of worse than 20/200 in Claimant's worse eye.

A listing for impairment of renal function (Listing 6.02) was considered based on diagnoses of acute kidney failure. The listing was rejected due to an absence of hemodialysis, kidney transplantation, or lab results which meet listing requirements.

A listing for cerebrovascular accident (Listing 11.04) was considered based on a history which included a stroke. The listing was rejected due to a failure to establish that

Claimant has ineffective speech or communication or that she has significant and persistent motor function disorganization.

A listing for intelligence disability (Listing 12.05) was considered based on evidence of illiteracy. The listing was rejected due to an absence of intelligence testing.

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 she has no recollection of any substantial gainful activity from the last 15 years. Claimant's testimony was not particularly compelling, but it would be consistent with a history of illiteracy and drug addiction. Claimant's testimony was also unrefuted. Based on the presented evidence, it can only be found that Claimant cannot return to performing past relevant employment because she had none. Accordingly, the analysis may proceed to step five.

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

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

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

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

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

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

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

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

The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.* In using the rules of Appendix 2, an individual's

circumstances, as indicated by the findings with respect to RFC, age, education, and work experience, is compared to the pertinent rule(s).

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform sedentary employment. For sedentary employment, periods of standing or walking should generally total no more than about 2 hours of an 8-hour workday. Social Security Rule 83-10.

Presented evidence verified that Claimant has a need for a cane due to knee pain. Use of a cane is consistent with an inability to perform light employment. The absence of treatment for Claimant's knee is somewhat troubling, however, based on Claimant's "very limited" range of knee motion and apparent "bone-on-bone" condition, it is unlikely that therapy would significantly improve Claimant's knee. It is also likely that Claimant has some degree of memory loss and left-side weakness following her stroke. When also factoring Claimant's high blood pressure struggles, even though they are primarily self-inflicted, it is improbable that Claimant could perform the requirements of light employment.

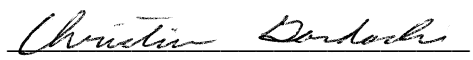
Based on Claimant's exertional work level (sedentary), age (approaching advanced age), education (less than high school), employment history (none), Medical-Vocational Rule 201.09 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that DHS improperly found 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 9/2013;
- (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 MA benefits.

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

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

Date Signed: 9/9/2014

Date Mailed: 9/9/2014

**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.

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

CG/hw

cc:

