

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24898
Issue No.: 2009
Case No.: [REDACTED]
Hearing Date: June 18, 2014
County: Macomb (36)

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 18, 2014, from Sterling Heights, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's roommate, testified on behalf of Claimant. [REDACTED] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Hearings Facilitator.

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 6/2013
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 1-2).

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 reliance on a Disability Determination Explanation.
7. On [REDACTED] an administrative hearing was held.
8. Claimant presented new medical documents (Exhibits A1-A43) at the hearing.
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. 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.
12. On [REDACTED], SHRT determined that Claimant was not disabled, in part, by application of Medical-Vocational Rule 202.21.
13. On [REDACTED] the Michigan Administrative Hearings System received the hearing packet and updated SHRT decision.
14. As of the date of the administrative hearing, Claimant was a 47-year-old female.
15. Claimant's highest education year completed was the 12th grade.
16. As of the date of the administrative hearing, Claimant was a Healthy Michigan Plan recipient since 4/2014.
17. Claimant alleged disability based on impairments and issues including seizures, stuttering, depression, fibromyalgia, anxiety, arthritis, pelvic pain, and weak legs.

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).

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id.* AMP is an MA program available to persons not eligible for Medicaid through the SSI-related or FIP-related categories though DHS does always offer the program to applicants. It was not disputed that Claimant's only potential category for Medicaid eligibility would be as a disabled individual.

Disability for purposes of MA benefits is established if one of the following circumstances applies:

- by death (for the month of death);
- the applicant receives Supplemental Security Income (SSI) benefits;
- SSI benefits were recently terminated due to financial factors;
- the applicant receives Retirement Survivors and Disability Insurance (RSDI) on the basis of being disabled; or
- RSDI eligibility is established following denial of the MA benefit application (under certain circumstances).

BEM 260 (7/2012) pp. 1-2

There was no evidence that any of the above circumstances apply to Claimant. Accordingly, Claimant may not be considered for Medicaid eligibility without undergoing a medical review process which determines whether Claimant is a disabled individual. *Id.*, p. 2.

Generally, state agencies such as DHS must use the same definition of SSI disability as found in the federal regulations. 42 CFR 435.540(a). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. A functionally identical definition of disability is found under DHS regulations. BEM 260 (7/2012), p. 8.

Substantial gainful activity means a person does the following:

- Performs significant duties, and
- Does them for a reasonable length of time, and
- Does a job normally done for pay or profit. *Id.*, p. 9.

Significant duties are duties used to do a job or run a business. *Id.* They must also have a degree of economic value. *Id.* The ability to run a household or take care of oneself does not, on its own, constitute substantial gainful activity. *Id.*

The person claiming a physical or mental disability has the burden to establish a disability through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

Federal regulations describe a sequential five step process that is to be followed in determining whether a person is disabled. 20 CFR 416.920. If there is no finding of disability or lack of disability at each step, the process moves to the next step. 20 CFR 416.920 (a)(4).

The first step in the process considers a person's current work activity. 20 CFR 416.920 (a)(4)(i). A person who is earning more than a certain monthly amount is ordinarily considered to be engaging in SGA. The monthly amount depends on whether a person is statutorily blind or not. "Current" work activity is interpreted to include all time since the date of application. The 2013 monthly income limit considered SGA for non-blind individuals is \$1,040.

Claimant credibly denied performing any employment since the date of the MA application; no evidence was submitted to contradict Claimant's testimony. Based on the presented evidence, it is found that Claimant is not performing SGA and has not performed SGA since the date of MA application. Accordingly, the disability analysis may proceed to step two.

The second step in the disability evaluation is to determine whether a severe medically determinable physical or mental impairment exists to meet the 12 month duration requirement. 20 CFR 416.920 (a)(4)(ii). The impairments may be combined to meet the severity requirement. If a severe impairment is not found, then a person is deemed not disabled. *Id.*

The impairments must significantly limit a person's basic work activities. 20 CFR 416.920 (a)(5)(c). "Basic work activities" refers to the abilities and aptitudes necessary to do most jobs. *Id.* Examples of basic work activities include:

- physical functions (e.g. walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling)
- capacities for seeing, hearing, and speaking, understanding; carrying out, and remembering simple instructions
- use of judgment

- responding appropriately to supervision, co-workers and usual work situations; and/or
- dealing with changes in a routine work setting.

Generally, federal courts have imposed a de minimus standard upon claimants to establish the existence of a severe impairment. *Grogan v. Barnhart*, 399 F.3d 1257, 1263 (10th Cir. 2005); *Hinkle v. Apfel*, 132 F.3d 1349, 1352 (10th Cir. 1997). *Higgs v Bowen*, 880 F.2d 860, 862 (6th Cir. 1988). Similarly, Social Security Ruling 85-28 has been interpreted so that a claim may be denied at step two for lack of a severe impairment only when the medical evidence establishes a slight abnormality or combination of slight abnormalities that would have no more than a minimal effect on an individual's ability to work even if the individual's age, education, or work experience were specifically considered. *Barrientos v. Secretary of Health and Human Servs.*, 820 F.2d 1, 2 (1st Cir. 1987). Social Security Ruling 85-28 has been clarified so that the step two severity requirement is intended "to do no more than screen out groundless claims." *McDonald v. Secretary of Health and Human Servs.*, 795 F.2d 1118, 1124 (1st Cir. 1986).

SSA specifically notes that age, education, and work experience are not considered at the second step of the disability analysis. 20 CFR 416.920 (5)(c). In determining whether Claimant's impairments amount to a severe impairment, all other relevant evidence may be considered. The analysis will begin with a summary of the relevant submitted medical documentation.

Claimant testified that she began stuttering in 2007 after walking into a wall. Medical records indicated that Claimant reported that stuttering began after a syncopal episode in 2007 (see Exhibit 16). It was noted that an MRA of Claimant's brain performed at the time was negative (see Exhibit 24).

Hospital documents (Exhibits 16-48) from an admission dated [REDACTED] were presented. It was noted that Claimant presented after she lost consciousness for 15-20 minutes. It was noted that Claimant experienced 1-2 blackouts/month over the last year but that she was never treated due to a lack of insurance. It was noted that Claimant stuttered but her concentration and attention were normal. It was noted that Claimant received various medications. Noted discharge diagnoses included syncope- rule out seizure. Mild arteriosclerotic disease was noted in right carotid artery. Head and chest radiology were noted to be negative. A discharge date of [REDACTED] was noted.

Physician treatment documents (Exhibits 12-15) dated [REDACTED] was presented. It was noted that Claimant sought treatment for ovarian cyst pain; a plan to start Flurbiprofen was noted. A continued prescription for Cymbalta to treat depression was noted.

A Medical Examination Report (Exhibits 8-9) dated [REDACTED] was presented. The form was completed by an internal medicine physician with an unspecified history of treating Claimant. It was noted that Claimant can meet household needs. A depressed and anxious mood was noted.

A Medical Examination Report (Exhibits 10-11) dated [REDACTED] was presented. The form was completed by a family practice physician with an approximate 2 ½ year history of treating Claimant. The physician provided diagnoses of generalized seizures, body pain, depression, migraine headaches, and impaired memory. Muscle strength was noted as 4+/5. An impression was given that Claimant's condition was deteriorating. It was noted that Claimant requires help with chores, cooking, cleaning, and laundry.

A psychiatric examination report (Exhibits 2-1 – 2-5) dated [REDACTED] was presented. The report was completed by a consultative psychiatrist. It was noted that Claimant reported that she was on a high calorie diet due to a two week weight loss of 19 pounds. It was noted that Claimant reported that she often vomits when she feels under stress. It was noted that Claimant reported that she was fired from past jobs for being too emotional. Noted observations of Claimant included the following: steady gait, contact with reality, marginal self-esteem, generally interactive and pleasant, spontaneous stream of mental activity, overtly anxious, apprehensive affect, and labile expression. Diagnoses of generalized anxiety disorder and depressive disorder were noted. A fair-to-guarded prognosis was noted. A medical source statement noted that Claimant is cognitively impaired due to losing focus. The examining psychiatrist also noted that Claimant does not appear to be able to adapt to changes in work assignments.

Hospital documents (Exhibits A7—A43) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with complaints of sudden lower right abdominal pain. Range of motion and neurological examinations were noted as normal. It was noted that radiology revealed some fluid in the pelvic area though it was noted it was not a basis for abdominal inflammation. It was also noted that gynecology, general surgery, and gastro-intestinal evaluation did not reveal a source for Claimant's symptoms. It was noted that Claimant failed to mention on her reconciliation form that she was on chronic opioids. A diagnosis of Munchausen vs. malingering vs. psychosomatic syndrome was noted. A discharge date of [REDACTED] 4 was noted. It was noted that Claimant would be referred for psychiatric treatment.

A Medical Examination Report (Exhibits A1-A2) dated [REDACTED] was presented. The form was completed by an internal medicine physician with an approximate 2 ½ year history of treating Claimant. It was noted that Claimant reported arthritis in her hips, wrists, and knees. It was noted that Claimant reported pain levels of 7-10. Claimant's physician provided diagnoses of insomnia, depression, ovarian pain, and anxiety. Noted medications included Valium, Xanax, Cymbalta, Celebrex, Lamictal, and cyclobenzaprine. An impression was given that Claimant's condition was deteriorating. It was noted that Claimant needed assistance with bathing, driving, cooking, cleaning, and medications. It was noted that Claimant was restricted in concentration, social interactions, comprehension, and memory.

A mental health agency letter (Exhibit A3) dated [REDACTED] was presented. It was noted that Claimant began weekly therapy sessions on [REDACTED]. Reported symptoms included the following: sadness, excessive worrying, concentration difficulties, interrupted sleep,

and anhedonia. It was noted that in 6/2012, Claimant was advised by her physician to quit working due to recurring vomiting associated with stress. An Axis I diagnosis of recurrent and severe depressive disorder was noted. Claimant's GAF was noted to be 45.

Physician documents (Exhibits A4-A6) dated [REDACTED] were presented. Noted active medical problems included: lumbar radiculopathy, shingles, cellulitis, pelvic female pain, chronic neck pain, insomnia, stuttering, arthritis, and headaches.

A psychological evaluation (Exhibits A44-A46; 2-6 – 2-7) dated [REDACTED] was presented. The form was completed by an MS intern and treating licensed psychologist. It was noted that Claimant reported feelings of sadness, ongoing for 14 years. Claimant reported that she was not previously psychiatrically hospitalized. It was noted that Claimant began employment as a paralegal assistant approximately 4 years earlier; it was noted that Claimant became anxious when thinking about working and that she often vomited due to stress and anxiety. It was noted that she was sensitive to criticism and made mistakes due to poor concentration. Current reported symptoms included lack of appetite, social isolation, and sleep interruption. Noted observations of Claimant included the following: stutterer, anxious, friendly attitude, appropriate thought content, hopeless, helpless, no abnormal perceptions, and orientation x4. It was noted that Claimant performs ADLs but may go days without showering. Axis I diagnoses of major depressive disorder and panic disorder were noted. Claimant's GAF was noted to be 45.

Claimant testified that she suffers body pain due to fibromyalgia. There was no apparent diagnosis for fibromyalgia in presented records. Documents from Claimant's physician referred to arthritis. Claimant's physician also noted various exertional restrictions. The evidence established some degree of walking and/or lifting restrictions due to arthritis.

Claimant alleged disability, in part, due to pelvic pain. One hospital treatment for pelvic pain was noted. Hospital physicians found no physical problems to justify Claimant's complaints. It is found that Claimant failed to establish any severe impairment based on pelvic pain.

One hospitalization for syncope was verified. Claimant alleged a recurrent problem with syncope, most notably, an episode that apparently caused her to stutter. Presented evidence failed to verify an anatomical explanation for Claimant's syncope episodes. The evidence was not sufficient to establish that Claimant is in danger of future syncope episodes. The evidence was sufficient to establish that Claimant's stuttering is an ongoing problem.

Claimant alleged disability, in part, based on psychological disorders. Diagnoses of depression and anxiety were established. A short period of treatment for the disorders was also verified.

Based on the presented evidence, it is found that Claimant has exertional and non-exertional severe impairments. The medical evidence also established that Claimant's restrictions have lasted since 6/2013, the first month that Claimant seeks MA benefits. It is found that Claimant has a severe impairment and the analysis may proceed to step three.

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

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of joint pain. The listing was rejected due to a failure to present radiology or other testing to justify finding that Claimant is unable to ambulate effectively.

A listing for loss of speech (Listing 2.09) was considered based on Claimant's stuttering. The listing was rejected because Claimant's speech can be heard, understood, and maintained.

A listing for organic mental disorders (Listing 12.02) was considered based on possible injuries that Claimant suffered after hitting her head in 2007. The listing was rejected due to a lack of evidence to support any physical injury.

A listing for affective disorder (Listing 12.04) was considered based on diagnoses of depression. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant required a highly supportive living arrangement, suffered repeated episodes of decompensation or that the residual disease process resulted in a marginal adjustment so that even a slight increase in mental demands would cause decompensation.

A listing for anxiety-related disorders (Listing 12.06) was considered based on Claimant's treating physician's diagnosis of an anxiety disorder. This listing was rejected due to a failure to establish marked restrictions in social functioning, completion of daily activities or concentration. It was also not established that Claimant had a complete inability to function outside of the home.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves to step four.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity (RFC) and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if it is determined that a claimant can perform past relevant work. *Id.*

Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3). RFC is assessed based on impairment(s), and any related symptoms, such as pain, which may cause physical and mental limitations that affect what can be done in a work setting. RFC is the most that can be done, despite the limitations.

Claimant testified that she worked for 20 years as a dental office manager. Claimant testified that after losing a job in 2011, she worked for six months as a paralegal assistant. Medical records noted that Claimant lost many jobs due to anxiety and/or emotional stress. Based on the presented evidence, it is found that Claimant's previous employment was too stressful for Claimant to perform and the analysis may proceed to step five.

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

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

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

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

additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id.*

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

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

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

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

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

Given Claimant's age, education and employment history a determination of disability is dependent on Claimant's ability to perform 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.

Claimant testified that she has no sitting restrictions. Presented evidence was consistent with Claimant's testimony.

Claimant testified that she can only walk 3-4 blocks on a good day. Claimant also testified that she is restricted to 10 pounds or less of lifting. Claimant's testimony was consistent with her physician's statements.

In a Medical Examination Report (MER) dated [REDACTED], Claimant's physician opined that Claimant was restricted to less than 2 hours of standing and/or walking. It was opined that Claimant was restricted from lifting/carrying any amount of weight. Claimant's physician opined that Claimant was restricted from performing the following repetitive actions with her hands/arms: simple grasping, reaching, pushing/pulling, and fine manipulating. The report was consistent with a previous MER which stated that Claimant needs assistance with household chores. The restrictions were consistent with an inability to perform sedentary employment.

Claimant's physician statements were not well supported. Degenerative joint disease was noted as the basis for the restrictions, but zero radiological evidence was presented. The physician noted no musculoskeletal findings in a physical examination on [REDACTED] though a previously completed MER noted less than full muscle strength. It was not disputed that Claimant requires no walking assistance device. Overall, the evidence was suggestive that Claimant could perform the exertional requirements for sedentary employment. Claimant's ability to perform employment must also factor psychological impairments.

Claimant's treating psychologist and MS intern completed a Mental Residual Functional Capacity Assessment (Exhibits 2-8 – 2-9) dated [REDACTED]. This form lists 20 different work-related activities among four areas: understanding and memory, sustained concentration and persistence, social interaction and adaptation. A therapist or physician rates the patient's ability to perform each of the 20 abilities as either "not significantly limited", "moderately limited", "markedly limited" or "no evidence of limitation". Marked restrictions were noted in working in coordination or proximity to other without being distracting, and completing a normal workday without psychological symptom interruption.

Claimant's psychological restrictions were found in step three to not equate to marked restrictions that would preclude the performance of employment. When factoring Claimant's combined mental and physical restrictions, it is improbable that Claimant could perform and maintain any type of employment. Accordingly, Claimant is a disabled individual and it is found that DHS improperly denied Claimant's MA application.

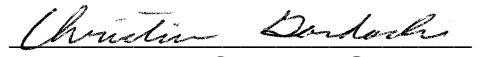
DECISION AND ORDER

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 6/2013;
- (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: 8/13/2014

Date Mailed: 8/13/2014

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:

