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

IN THE MATTER OF:

[redacted]

Reg. No.: 2014-4508
Issue No(s).: 2009, 4009
Case No.: [redacted]
Hearing Date: February 13, 2014
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 42 CFR 431.200 to 431.250; and 45 CFR 205.10. After due notice, a telephone hearing was held on February 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [redacted] the Claimant. Participants on behalf of the Department of Human Services (Department) included [redacted], Assistance Payments Worker.

During the hearing, Claimant waived the time period for the issuance of this decision in order to allow for the submission of additional medical records. Additional records were received.

ISSUE

Whether the Department properly determined that Claimant was not disabled for purposes of the Medical Assistance (MA) and State Disability Assistance (SDA) benefit programs?

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 June 19, 2013, Claimant applied for Medicaid (MA-P); retroactive MA-P and SDA.

2. On September 27, 2013, the Medical Review Team (MRT) found Claimant not disabled.

3. On October 2, 2013, the Department notified Claimant of the MRT determination.

4. On October 9, 2013, the Department received Claimant's timely written request for hearing.

5. On December 7, 2013 and March 28, 2014, the State Hearing Review Team (SHRT) found Claimant not disabled.

6. Claimant alleged multiple physical disabling impairments from an October 2012 car accident including headaches, fractured jaw, closed head injury, neck pain, back pain, and hip pain.

7. Claimant alleged mental disabling impairments of memory problems and anxiety with panic attacks.

8. At the time of hearing, Claimant was 43 years old with an April 6, 1970 birth date; was 5'4" in height; and weighed 118 pounds.

9. Claimant has a high school diploma and an employment history as an in-home caregiver.

10. Claimant's impairments have lasted, or are expected to last, continuously for a period of 12 months or longer.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program purusant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impariment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Disability is defined as the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905(a). The person claiming a physical or mental disability has the burden to establish it through the use of competent medical evidence from qualified medical sources such as his or her medical history, clinical/laboratory findings, diagnosis/prescribed treatment, prognosis for recovery and/or medical

assessment of ability to do work-related activities or ability to reason and make appropriate mental adjustments, if a mental disability is alleged. 20 CFR 416.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a). Similarly, conclusory statements by a physician or mental health professional that an individual is disabled or blind, absent supporting medical evidence, is insufficient to establish disability. 20 CFR 416.927.

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

In order to determine whether or not an individual is disabled, federal regulations require a five-step sequential evaluation process be utilized. 20 CFR 416.920(a)(1). The five-step analysis requires the trier of fact to consider an individual's current work activity; the severity of the impairment(s) both in duration and whether it meets or equals a listed impairment in Appendix 1; residual functional capacity to determine whether an individual can perform past relevant work; and residual functional capacity along with vocational factors (i.e. age, education, and work experience) to determine if an individual can adjust to other work. 20 CFR 416.920(a)(4); 20 CFR 416.945.

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

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

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

1. Physical functions such as walking, standing, sitting, lifting, pushing, pulling, reaching, carrying, or handling;

2. Capacities for seeing, hearing, and speaking;

3. Understanding, carrying out, and remembering simple instructions;

4. Use of judgment;

5. Responding appropriately to supervision, co-workers and usual work situations; and

6. Dealing with changes in a routine work setting.

Id.

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

In the present case, Claimant alleges disability due multiple physical disabling impairments from an October 2012 motor vehicle accident including headaches, fractured jaw, closed head injury, neck pain, back pain, and hip pain as well as mental disabling impairments of memory problems and anxiety with panic attacks.

A November 13, 2012 MRI Cervical Spine report indicated: no evidence of fracture or apparent degenerative change in the cervical spine; no evidence of disc herniation or spinal stenosis, neural foramen are patent bilaterally; no focal abnormality identified in the cervical cord, no enhancing abnormality identified throughout the cervical spine; incidentally noted was evidence of significant paranasal sinusitis with complete opacification in the left maxillary sinus indicating acute component.

A November 17, 2012 MRI of the Lumbar Spine indicated: there is no evidence of acute fracture or spondylolisthesis, mild to very mild degenerative changes are seen in the facets; there is no evidence of disc herniation or spinal stenosis, the neural foramen are patent bilaterally; no enhancing abnormality is identified throughout the lumbar spine.

A January 11, 2013 MRI of Brain indicated: there is no evidence of an intracranial hemorrhage, mass lesion, or apparent acute infarct; numerous small lesions are seen in the deep white matter bilaterally, the etiology is uncertain, based on the number of lesions, distribution, and Claimant's age a demyelinating disorder may have this appearance; there is evidence of chronic and acute sinusitis primarily involving the left maxillary sinus, there is also evidence of mastoiditis on the left.

A January 15, 2013 MRI of the Right Hip indicated: there is no evidence of a fracture or significant degenerative change about the right hip; there is no evidence of a joint effusion or avascular necrosis; the adjacent soft tissues are intact without evidence of a cystic or solid mass, there is no evidence of injury to the adjacent musculature about the hip.

A January 15, 2013 MRI of the pelvis indicated: unremarkable appearance of the pelvis, there is no evidence of a fracture or significant osseous abnormality, there is no evidence of a joint effusion or avascular necrosis; small follicular-like cysts are seen in the pelvis, no other cystic or solid mass is identified within the pelvis; the musculature and subcutaneous tissues also appear unremarkable, there is no evidence of a cystic or solid mass, there is no evidence of a muscle injury.

A January 17, 2013 MRI of the Left Hip indicated: unremarkable appearance of the left hip, there is no evidence of a fracture, degenerative chance, stress related change or avascular necrosis, there is no evidence of a joint effusion; the musculature about the left hip appears unremarkable, there is no evidence of a cystic or solid mass, there is no evidence of a muscle injury; small follicular-like cysts are seen in the ovaries, and the pelvis otherwise appears unremarkable.

A March 7, 2013 MRI Cervical Spine indicated: no evidence of a fracture or significant degenerative change in the cervical spine; no evidence of disc herniation or spinal stenosis, neural foramen are patent bilaterally; no focal abnormality identified in the cervical cord, the overall appearance of the cervical spine is essentially unchanged since November 13, 2012.

A March 27, 2013 ultrasound of the arteries of the right lower extremity was unremarkable. There was no evidence of stenosis or aneurysmal dilation involving the arteries of the right lower extremity.

On May 2, 2013, Claimant was seen by an oral and maxillofacial surgeon. The surgeon documented that as a result of the October 2012 motor vehicle accident, tooth #11 was fractured and there was dislodgement of the restorative dental bridge that Claimant had in the left maxilla. Tooth #11 is non-restorable and is no longer a functional abutment for a future dental bridge. Reconstruction will require extraction of the remaining fragments of tooth #11 as well as bone grafting to the area to afford the placement of dental implants in the left maxilla that can allow for reconstruction without the use of a fixed dental bridge.

A June 12, 2013 progress note from Claimant's doctor indicated treatment in that office for headaches, neck pain, jaw pain, and cognitive impairment from the October 16, 2012 motor vehicle accident. In the doctor's opinion, Claimant was still significantly impaired eight months after the accident and the injuries will likely be long-standing.

On June 28, 2013, Claimant's doctor wrote a letter documenting that he diagnosed Claimant with a brain injury and a brain MRI showed abnormalities with multiple deep white matter lesions. It was noted Claimant was responding to spasticity treatments for her lower extremity pain. An additional diagnosis of facial bone fractures was documented with a notation that Claimant was undergoing treatment. The doctor also noted Claimant has recurrent headaches due to both the facial bone fractures and brain lesions.

On July 10, 2013, Claimant's doctor completed a disability certificate indicating Claimant had a work/employment disability, as well as disability from housework, attendant care, driving and recreational activities with a start date of October 16, 2012 through her next appointment.

On August 1, 2013, Claimant's doctor completed a DHS-49 Medical Examination report. Diagnoses of traumatic brain injury, depression, anxiety, gait dysfunction, and spasticity were documented. Exam findings included muscle strength 5/5; hyperspasticity in bilateral trapezius, cervical paraspinal; favoring left leg with ambulation; as well as healthy appearing and alert and oriented x3. Claimant's condition was stable. Physical limitations included lifting less than 10 pounds frequently, lifting up to 10 pounds occasionally. Standing or walking and sitting in an 8 hour work day were not addressed. No assistive device was medically required for ambulation. It was marked that Claimant was unable to use hands/arms and feet/legs for repetitive action. There were no mental limitations.

On August 6, 2013, Claimant attended a consultative Mental Status Examination. Diagnoses of adjustment disorder, anxiety and cognitive disorder secondary to closed head injury resolving were documented. It was noted that "the medical evidence and objective data suggests she has had some mild cognitive impairments secondary to her

closed head injury, although there was insufficient supporting evidence included with the referral to determine the effects of these impairments in her current functioning. She is still able to follow simple 2 and 3 step directions and interact appropriately with others. There is no evidence of psychiatric symptoms currently interfering with her daily functioning."

On August 29, 2013, Claimant's doctor indicated that Claimant may not return to work and her next office visit would be in six months. Home care replacement services and case management were also indicated due to traumatic brain injury, spasticity, cognitive impairment status post motor vehicle accident, neck pain and headache.

On December 10, 2013, Claimant's doctor completed a DHS-49 Medical Examination report. Diagnoses of memory loss, pain due to brain injury, and muscle damage in neck were documented. Exam findings included neck pain with range of motion, brisk reflexes and decreased long term memory. Claimant's condition was deteriorating. Physical limitations included lifting up to 10 pounds occasionally, standing or walking at least 2 hours in an 8 hour work day, and sitting about 6 hours in an 8 hour work day. No assistive device was medically required for ambulation. No limitations was indicated for using hands/arms and feet/legs for repetitive action. Mental limitations with memory, sustained concentration and social interaction were also marked based on Claimant's report.

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

In the third step of the sequential analysis of a disability claim, the trier of fact must determine if the Claimant's impairment, or combination of impairments, is listed in Appendix 1 of Subpart P of 20 CFR, Part 404. The evidence confirms treatment/diagnosis of multiple physical disabling impairments from an October 2012 motor vehicle accident including headaches, fractured jaw, closed head injury, neck pain, back pain, and hip pain. There was also some evidence of mental disabling impairments of anxiety and memory loss. However, the objective medical evidence was not sufficient to meet or equal the criteria of any listings, such as musculoskeletal listings 1.02 and 1.04, neurological listing 11.14, and mental disorder listings 12.02, 12.04, 12.06, and 12.07.

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

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

To determine the physical demands (exertional requirements) of work in the national economy, jobs are classified as sedentary, light, medium, heavy, and very heavy. 20 CFR 416.967. Sedentary work involves lifting of no more than 10 pounds at a time and occasionally lifting or carrying articles like docket files, ledgers, and small tools. 20 CFR 416.967(a). Although a sedentary job is defined as one which involves sitting, a certain amount of walking and standing is often necessary in carrying out job duties. *Id.* Jobs are sedentary if walking and standing are required occasionally and other sedentary criteria are met. Light work involves lifting no more than 20 pounds at a time with frequent lifting or carrying objects weighing up to 10 pounds. 20 CFR 416.967(b). Even though weight lifted may be very little, a job is in this category when it requires a good deal of walking or standing, or when it involves sitting most of the time with some pushing and pulling of arm or leg controls. *Id.* To be considered capable of performing a full or wide range of light work, an individual must have the ability to do substantially all of these activities. *Id.* An individual capable of light work is also capable of sedentary work, unless there are additionally limiting factors such as loss of fine dexterity or inability to sit for long periods of time. *Id*. Medium work involves lifting no more than 50 pounds at a time with frequent lifting or carrying of objects weighing up to 25 pounds. 20 CFR 416.967(c). An individual capable of performing medium work is also capable of light and sedentary work. *Id.* Heavy work involves lifting no more than 100 pounds at a time with frequent lifting or carrying of objects weighing up to 50 pounds. 20 CFR 416.967(d). An individual capable of heavy work is also capable of medium, light, and sedentary work. *Id.* Finally, very heavy work involves lifting objects weighing more than 100 pounds at a time with frequent lifting or carrying objects weighing 50 pounds or more. 20 CFR 416.967(e). An individual capable of very heavy work is able to perform work under all categories. *Id.*

Limitations or restrictions which affect the ability to meet the demands of jobs other than strength demands (exertional requirements, i.e. sitting, standing, walking, lifting, carrying, pushing, or pulling) are considered nonexertional. 20 CFR 416.969a(a). In considering whether an individual can perform past relevant work, a comparison of the individual's residual functional capacity with the demands of past relevant work. *Id.* If an individual can no longer do past relevant work the same residual functional capacity assessment along with an individual's age, education, and work experience is considered to determine whether an individual can adjust to other work which exists in the national economy. *Id.* Examples of non-exertional limitations or restrictions include difficulty to function due to nervousness, anxiousness, or depression; difficulty maintaining attention or concentration; difficulty understanding or remembering detailed instructions; difficulty in seeing or hearing; difficulty tolerating some physical feature(s) of certain work settings (i.e. can't tolerate dust or fumes); or difficulty performing the manipulative or postural functions of some work such as reaching, handling, stooping,

climbing, crawling, or crouching. 20 CFR 416.969a(c)(1)(i) – (vi). If the impairment(s) and related symptoms, such as pain, only affect the ability to perform the non-exertional aspects of work-related activities, the rules in Appendix 2 do not direct factual conclusions of disabled or not disabled. 20 CFR 416.969a(c)(2). The determination of whether disability exists is based upon the principles in the appropriate sections of the regulations, giving consideration to the rules for specific case situations in Appendix 2. *Id.*

In this case, the evidence confirms the evidence confirms treatment/diagnosis of multiple physical disabling impairments from an October 2012 motor vehicle accident including headaches, fractured jaw, closed head injury, neck pain, back pain, and hip pain. There was also some evidence of mental disabling impairments of anxiety and memory loss. However, the objective medical evidence does not support the severity of the limitations Claimant described nor all the restrictions indicated by the treating doctor. For example, the objective medical evidence does not support that Claimant was unable to use hands/arms and feet/legs for repetitive action as marked on the August 1, 2013 DHS-49 Medical Examination Report. The objective medical evidence does support that Claimant could use both right and left hands/arms and feet/legs for repetitive action as marked on the December 10, 2013 Medical Examination Report. Further, while the August 6, 2013 consultative Mental Status Examination documented diagnoses of adjustment disorder, anxiety and cognitive disorder secondary to closed head injury resolving, it was also noted that Claimant was still able to follow simple 2 and 3 step directions and interact appropriately with others and that there was no evidence of psychiatric symptoms currently interfering with her daily functioning. After review of the entire record and considering the Claimant's testimony, it is found, at this point, that Claimant maintains the residual functional capacity to perform at least sedentary work as defined by 20 CFR 416.967(a), with some limitations, including tasks of a simple and repetitive nature that do not involve the use of ropes, ladders, scaffolding, or more than concentrated exposure to unprotected heights and dangerous machinery.

The fourth step in analyzing a disability claim requires an assessment of the Claimant's residual functional capacity ("RFC") and past relevant employment. 20 CFR 416.920(a)(4)(iv). An individual is not disabled if he/she can perform past relevant work. *Id*.; 20 CFR 416.960(b)(3). Past relevant work is work that has been performed within the past 15 years that was a substantial gainful activity and that lasted long enough for the individual to learn the position. 20 CFR 416.960(b)(1). Vocational factors of age, education, and work experience, and whether the past relevant employment exists in significant numbers in the national economy is not considered. 20 CFR 416.960(b)(3).

Claimant has an employment history as an in-home caregiver. As noted above, the objective evidence does not support the severity of all of the limitations Claimant and her doctor described, but does support a RFC of sedentary work with limitations. In light of the entire record and Claimant's RFC, it is found that Claimant is not able to perform past relevant work. Accordingly, Claimant cannot be found disabled, or not disabled, at Step 4.

In Step 5, an assessment of Claimant's residual functional capacity and age, education, and work experience is considered to determine whether an adjustment to other work can be made. 20 CFR 416.920(4)(v). At the time of hearing, Claimant was 43 years old and, thus, considered to be a younger individual for MA-P purposes. Claimant has a high school diploma and an employment history as an in-home caregiver. Disability is found if an individual is unable to adjust to other work. *Id.* At this point in the analysis, the burden shifts from the Claimant to the Department to present proof that the Claimant has the residual capacity to substantial gainful employment. 20 CFR 416.960(2); *Richardson v Sec of Health and Human Services*, 735 F2d 962, 964 (CA 6, 1984). While a vocational expert is not required, a finding supported by substantial evidence that the individual has the vocational qualifications to perform specific jobs is needed to meet the burden. *O'Banner v Sec of Health and Human Services*, 587 F2d 321, 323 (CA 6, 1978). Medical-Vocational guidelines found at 20 CFR Subpart P, Appendix II, may be used to satisfy the burden of proving that the individual can perform specific jobs in the national economy. *Heckler v Campbell*, 461 US 458, 467 (1983); *Kirk v Secretary*, 667 F2d 524, 529 (CA 6, 1981) *cert den* 461 US 957 (1983).

In this case, the evidence confirms recent treatment/diagnosis of multiple physical disabling impairments from an October 2012 motor vehicle accident including headaches, fractured jaw, closed head injury, neck pain, back pain, and hip pain. There was also some evidence of mental disabling impairments of anxiety and memory loss. However, the objective medical evidence does not support the severity of all of the limitations Claimant and the treating doctor described. In light of the foregoing, it is found that Claimant maintains the residual functional capacity for work activities on a regular and continuing basis to meet the physical and mental demands required to perform at sedentary work as defined in 20 CFR 416.967(a) with some limitations, including tasks of a simple and repetitive nature that do not involve the use of ropes, ladders, scaffolding, or more than concentrated exposure to unprotected heights and dangerous machinery.

After review of the entire record, and in consideration of the Claimant's age, education, work experience, RFC, and using the Medical-Vocational Guidelines [20 CFR 404, Subpart P, Appendix II] as a guide, specifically Rule 201.27,Claimant is found not disabled at Step 5.

The SDA program, which provides financial assistance for disabled persons, was established by 2004 PA 344. DHS administers the SDA program purusant to MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. Department policies are found in BAM, BEM, and RFT. A person is considered disabled for SDA purposes if the person has a physical or mental impariment which meets federal SSI disability standards for at least ninety days. Receipt of SSI or RSDI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness (MA-P) automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, the Claimant is found not disabled for purposes SDA benefits as the objective medical evidence also does not establish a physical or mental impairment that met the federal SSI disabiltiy standard with the shortened duration of 90 days since the June 19, 2013 SDA application was filed. The objective medical evidence does not support the severity of all of the limitations Claimant and the treating doctor described. In light of the foregoing, it is found that Claimant's impairments did not preclude work at the above stated level for at least 90 days.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds Claimant not disabled for purposes of the MA and SDA benefit programs.

DECISION AND ORDER

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

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

Date Signed: April 30, 2014

Date Mailed: April 30, 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

CL/hj

cc: [redacted]