

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

IN THE MATTER OF:



Reg. No.: 14-014353
Issue No.: 4009
Case No.:
Hearing Date: January 21, 2015
County: Wayne (19)

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 January 21, 2015, from Inkster, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included , medical contact worker.

ISSUE

The issue is whether DHS properly denied Claimant's State Disability Assistance (SDA) eligibility 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 , Claimant applied for SDA benefits.
2. Claimant's only basis for SDA benefits was as a disabled individual.
3. On , the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 7-8).
4. On , DHS denied Claimant's application for SDA benefits and mailed a Notice of Case Action (Exhibits 5-6) informing Claimant of the denial.
5. On , Claimant requested a hearing disputing the denial of SDA benefits (see Exhibits 2-3).

6. On [REDACTED], an administrative hearing was held.
7. During the hearing, Claimant and DHS waived the right to receive a timely hearing decision.
8. During the hearing, the record was extended 30 days to allow Claimant to submit an updated Medical Examination Report and/or foot treatment documents.
9. Claimant did not submit additional medical documents.
10. As of the date of the administrative hearing, Claimant was a 49 year old female.
11. Claimant has not earned substantial gainful activity since before the first month of benefits sought.
12. Claimant's highest education year completed was the 12th grade.
13. Claimant has a history of unskilled employment, with no transferrable job skills.
14. Claimant alleged disability based on restrictions related to diagnoses of an injured right toe and bipolar disorder.

CONCLUSIONS OF LAW

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

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (1/2013), p. 4. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.* To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (1/2012), p. 1. A person is disabled for SDA purposes if he/she:

- receives other specified disability-related benefits or services, see Other Benefits or Services below, or
 - resides in a qualified Special Living Arrangement facility, or
 - is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability; or
 - is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).
- Id.*

A letter from a treating rehabilitation counselor (Exhibit A1) dated 10/1/14 was presented. It was noted that Claimant was eligible for Michigan Rehabilitation Services (MRS).

Claimant's eligibility for MRS meets the disability requirement for SDA eligibility. If DHS denied SDA eligibility to Claimant from [REDACTED], Claimant would have proved that the denial was improper. As it happened, Claimant applied for SDA benefits on [REDACTED]. DHS denied Claimant's application on [REDACTED]. Claimant's post-denial eligibility for MRS is irrelevant to an analysis of Claimant's SDA eligibility from [REDACTED].

There was no evidence that any of the above circumstances apply to Claimant for the period of [REDACTED]. Accordingly, Claimant may not be considered for SDA eligibility without undergoing a medical review process (see BAM 815) which determines whether Claimant is a disabled individual. *Id.*, p. 3.

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. As noted above, SDA eligibility is based on a 90 day period of disability.

SGA means a person does the following: performs significant duties, 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 SGA. *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 2014 monthly income limit considered SGA for non-blind individuals is \$1,070.

Claimant credibly denied performing any employment since the date of the SDA 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 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 12 month durational period is applicable to MA benefits; as noted above, SDA eligibility requires only a 90 day duration of disability.

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 presented medical documentation.

Hospital documents (Exhibits 84-88) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of pain from an abscess on her right leg. It was noted that Claimant was negative for cellulitis. An incision and drainage was performed. Prescriptions for Ativan and Bactrim were noted.

Hospital documents (Exhibits 77-83) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with left-side chest pain. It was noted that Claimant fell onto a speaker the day before. It was noted that chest x-rays were negative. It was noted that Claimant was given toradol and opiates for her pain.

An Intake Assessment dated [REDACTED] (Exhibits 90-109) from a newly treating mental health agency was presented. The assessment was noted as completed by a social worker. It was noted that Claimant reported depressed and manic mood. Notable observations of Claimant included the following: good grooming and hygiene, good gait, orientation x4, distractible concentration, unremarkable thought process, normal stream of mental activity, unremarkable speech characteristics, unremarkable presentation, depressed mood, and fair judgment. A low risk for suicide was noted. It was noted that Claimant last used alcohol on [REDACTED] 4. An Axis I diagnosis of manic affective disorder was noted. Claimant's GAF was noted to be 38.

A Treatment Plan (Exhibits 110-119) dated [REDACTED] was presented. Monthly-to-bimonthly medication reviews with a psychiatrist were noted as planned.

A Psychiatric Evaluation (Exhibits 126-135) dated [REDACTED] was presented. It was noted that Claimant resided in a drug rehab facility. Observations of Claimant included the following: orientation x4, alert, distractible concentration, poor judgment (based on history of drug abuse and criminal history), flight of ideas, unremarkable thought processes, fidgety, and superficial insight. An Axis I diagnosis of bipolar disorder was noted. Claimant's GAF was noted to be 48. It was noted that Claimant's drug history justified a guarded prognosis.

Hospital documents (Exhibits 68-76) from an encounter dated [REDACTED] were presented. It was noted that Claimant presented with complaints of right foot bunion and hammertoes. It was noted that Claimant underwent first metatarsophalangeal joint fusion.

Hospital documents (Exhibits 16-67) from an admission dated [REDACTED] were presented. It was noted that Claimant presented with right foot pain. Complaints of severe restlessness and racing thoughts were noted. Active problems of ADHD, chronic back pain, and depression were noted. It was noted that Claimant recently completed a stint in substance abuse rehabilitation facility and that Claimant denied recent drug or alcohol

abuse. A physical examination finding of significant right foot edema with mild erythema was noted. Ongoing medications of Ritalin, Zoloft, and Neurontin were noted. An Axis I diagnosis of opiate-induced mood disorder was noted. It was noted that Claimant's recent mood change might be related to a recent change in medication. On [REDACTED], it was noted that Claimant's restlessness and racing thoughts were resolved. It was noted that radiology of Claimant's right foot demonstrated post-surgical changes and osteoarthritis and soft tissue swelling of the first metatarsal phalangeal joint. It was noted that Claimant admitted to being noncompliant with post-surgery instructions and that Claimant was without her post-operative immobilizing boot. A plan of partial weight-bearing in a boot was noted as planned. A discharge date of [REDACTED] was noted. A recommendation of follow-up with a mental health agency was noted.

A Medical Examination Report (Exhibits 11-13) dated [REDACTED] was presented. The form was completed by a treating podiatrist with an approximate 2 ½ month history of treating Claimant. Diagnoses of hallux rigidus and a right digital fracture were noted. Tylenol 3 with codeine/oxycodone was listed as Claimant's only current medication. An impression was given that Claimant's condition was stable. It was noted that Claimant had corrective bunion surgery on [REDACTED] and a subsequent appointment found that Claimant had a broken toe, unrelated to surgery.

A complaint of back pain was noted. Back pain treatment records and radiology reports were not presented. Presented evidence was insufficient to infer back pain restrictions.

Claimant alleged disability, in part, based on restrictions related to foot and toe pain. Medical records verified a recent history of bunion surgery and a broken toe. Medical records noted that Claimant's failure to consistently utilize an immobilizing boot set her recovery back.

Claimant's physician credibly stated that Claimant had ongoing ambulation, standing, and lifting restrictions. The statements of Claimant's physician were sufficient evidence of a severe impairment related to foot and toe pain.

Claimant also alleged disability based on psychological restrictions. A diagnosis for bipolar disorder and some psychiatric treatment was verified. The evidence was also supportive in finding that Claimant has some degree of restrictions related to concentration and persistence.

It is found that Claimant established significant impairment to basic work activities for a period longer than 12 months. Accordingly, it is found that Claimant established having a severe impairment and the disability analysis may proceed to Step 3.

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 diagnosis of bipolar disorder was verified. Bipolar disorder is an affective disorder covered by Listing 12.04 which reads as follows:

12.04 Affective disorders: Characterized by a disturbance of mood, accompanied by a full or partial manic or depressive syndrome. Mood refers to a prolonged emotion that colors the whole psychic life; it generally involves either depression or elation. The required level of severity for these disorders is met when the requirements in both A and B are satisfied, or when the requirements in C are satisfied.

A. Medically documented persistence, either continuous or intermittent, of one of the following:

1. Depressive syndrome characterized by at least four of the following:
 - a. Anhedonia or pervasive loss of interest in almost all activities; or
 - b. Appetite disturbance with change in weight; or
 - c. Sleep disturbance; or
 - d. Psychomotor agitation or retardation; or
 - e. Decreased energy; or
 - f. Feelings of guilt or worthlessness; or
 - g. Difficulty concentrating or thinking; or
 - h. Thoughts of suicide; or
 - i. Hallucinations, delusions, or paranoid thinking

OR

2. Manic syndrome characterized by at least three of the following:
 - a. Hyperactivity; or
 - b. Pressure of speech; or
 - c. Flight of ideas; or
 - d. Inflated self-esteem; or
 - e. Decreased need for sleep; or
 - f. Easy distractibility; or
 - g. Involvement in activities that have a high probability of painful consequences which are not recognized; or
 - h. Hallucinations, delusions or paranoid thinking

OR

3. Bipolar syndrome with a history of episodic periods manifested by the full symptomatic picture of both manic and depressive syndromes (and currently characterized by either or both syndromes);

AND

- B. Resulting in at least two of the following:
1. Marked restriction of activities of daily living; or
 2. Marked difficulties in maintaining social functioning; or

3. Marked difficulties in maintaining concentration, persistence, or pace; or
4. Repeated episodes of decompensation, each of extended duration

OR

C. Medically documented history of a chronic affective disorder of at least 2 years' duration that has caused more than a minimal limitation of ability to do basic work activities, with symptoms or signs currently attenuated by medication or psychosocial support, and one of the following:

1. Repeated episodes of decompensation, each of extended duration; or
2. A residual disease process that has resulted in such marginal adjustment that even a minimal increase in mental demands or change in the environment would be predicted to cause the individual to decompensate; or
3. Current history of 1 or more years' inability to function outside a highly supportive living arrangement, with an indication of continued need for such an arrangement.

As of 5/2014, Claimant had a GAF of 48. The Diagnostic and Statistical Manual of Mental Disorders (4th edition) (DSM IV) states that a GAF within the range of 41-50 is representative of a person with "serious symptoms (e.g., suicidal ideation, severe obsessional rituals, frequent shoplifting) or any serious impairment in social, occupational, or school functioning (e.g. no friends, unable to keep a job)." Claimant's GAF is supportive of finding that Claimant has marked psychological restrictions.

It is problematic for Claimant that a hospital admission from 6/2014 documenting psychological symptoms was, in part, due to pain caused by medical non-compliance and psychological symptoms related to medications. These considerations tend to support finding that reported hospital symptoms were fleeting. This finding is further supported by the lack of psychological treatment following hospital discharge, even though treatment was advised.

Claimant testified that she regularly sees a psychiatrist. Ongoing psychiatrist treatment was not verified. This consideration supports finding that Claimant's ongoing function level is higher than what a GAF of 48 suggests.

It is also notable that Claimant's GAF of 48 was assessed within two months after her most recent alcohol abuse and a few days before foot surgery. These considerations support finding that Claimant's GAF improved with the passage of time from foot surgery and Claimant's last substance abuse.

A listing for joint dysfunction (Listing 1.02) was considered based on Claimant's foot and toe medical history. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

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 had past employment as a waitress and as a hi-lo driver. Claimant testimony implied that she would be unable to perform the standing, ambulation, and lifting of her past employment. Claimant's testimony was credible and consistent with presented evidence. It is found that Claimant cannot perform past employment and the analysis may proceed to the final step.

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.

Physician statements of restrictions were provided. Treating source opinions cannot be discounted unless the Administrative Law Judge provides good reasons for discounting the opinion. *Rogers v. Commissioner*, 486 F. 3d 234 (6th Cir. 2007); *Bowen v Commissioner*.

On a Medical Examination Report dated [REDACTED], Claimant's physician opined that Claimant was restricted to about 6 hours of sitting per 8 hour workday. Ambulation restrictions were not noted. These restrictions were indicative of an ability to perform sedentary employment.

Claimant's physician opined that Claimant was restricted from performing repetitive pushing/pulling and from operating foot/leg controls with either foot. The restriction was curious because there was no evidence of left foot deformity. It is also curious that Claimant's physician did not indicate that Claimant's condition was improving (instead of stable), given Claimant's surgery from approximately 40 days prior. These considerations lessen the credibility of the physician's provided restrictions.

Claimant's physician opined that Claimant was incapable of lifting/carrying any amount of weight. This restriction again seemed excessive in light of Claimant's fairly recent surgery for a relatively routine injury. The other noted diagnosis, hallux rigidus, is understood to cause toe pain or stiffness could limit Claimant's ability to lift. The diagnosis, without radiology or substantially more medical evidence, would not justify a total lifting restriction.

Claimant's psychological records are suggestive of concentration difficulties which may preclude Claimant from performing complex employment. Claimant appears capable of non-complex employment. The employment restriction is not deemed to be so restrictive as to significantly erode Claimant's sedentary employment opportunities. Examples of sedentary employment within Claimant's capabilities would include assembler, telephone sales, and data entry. It is found that Claimant is at least capable of performing sedentary employment.

Based on Claimant's exertional work level (sedentary), age (younger individual aged 45-49), education (high school), employment history (semi-skilled with no skill transferability), Medical-Vocational Rule 201.21 is found to apply. This rule dictates a finding that Claimant is not disabled. Accordingly, it is found that DHS properly found Claimant to be not disabled for purposes of SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's SDA benefit application dated [REDACTED] based on a determination that Claimant is not disabled.

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



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/24/2015**

Date Mailed: **2/24/2015**

CG / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC:

