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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-006317 RECON
Issue No.: 2009
Case No.: [redacted]
Hearing Date: February 4, 2015
County: Wayne (35)

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, a telephone hearing was held on February 4, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [redacted] testified and appeared as Claimant's Authorized Hearing Representative (AHR). [redacted], Claimant's clinical specialist, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [redacted], Hearings Facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's Medical Assistance (MA) 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 [redacted], Claimant applied for MA benefits, including retroactive MA benefits from 10/2013.

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 12-13).

4. On [redacted], DHS denied Claimant's application for MA benefits and mailed an Application Eligibility Notice (Exhibit 3) informing Claimant of the denial.

5. On [redacted], Claimant's AHR requested a hearing disputing the denial of MA benefits (see Exhibit 2).

6. As of the date of the administrative hearing, Claimant was a 34 year old female.

7. Claimant has not earned substantial gainful activity since before the first month of benefits sought.

8. Claimant's highest education year completed was the 12th grade.

9. Claimant has a history of unskilled employment, with no known transferrable job skills.

10. Claimant alleged disability based on restrictions related to diagnoses of cerebral palsy, depression, anxiety, and bipolar disorder.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant's AHR noted special arrangements in order to participate in the hearing; specifically, a 3-way telephone hearing was requested. Claimant's AHR's request was granted and the hearing was conducted accordingly.

The Medicaid program is comprised of several sub-programs which fall under one of two categories; one category is FIP-related and the second category is SSI-related. BEM 105 (10/2010), p. 1. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id*. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant, women receive MA under FIP-related categories. *Id*. 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.

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 CRF 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 F2d 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.

Various medication review notes (Exhibits A50-A101) from 2013 were presented. It was regularly noted that Claimant abused marijuana and cocaine. It was regularly noted that Claimant had no recent stressors. It was regularly noted that Claimant's clinical condition was stable. It was regularly noted that Claimant took Paxil.

A psychiatric evaluation (Exhibits A10-A16) dated [redacted] was presented. The evaluation was noted as completed by a psychiatrist from a treating mental health agency. It was noted that Claimant continued to be dependent on alcohol and marijuana. It was noted that Claimant smelled like marijuana and alcohol. A history of 8 psychiatric hospitalizations, most recently in 2011, was noted. Notable observations of Claimant included the following: poor hygiene, poor grooming, orientation x3, cooperative, eurythmic mood, constricted affect, normal speech, fair concentration, pre-occupied thought content, no suicidal or homicidal ideation, and no hallucinations. A diagnosis of recurrent major depressive disorder was noted. Claimant's GAF was noted to be 55. A guarded prognosis was noted. A recommendation of substance abuse rehabilitation was noted.

A Clinical Annual Update Assessment (Exhibits 17-19) dated [redacted] was presented. The assessment was completed by a treating social worker with a mental health agency. It was noted that Claimant's continued alcohol and drug abuse threatened placement in housing programs. It was noted that Claimant expressed interest in substance abuse rehab though she has taken "no real effort" to pursue treatment. It was noted that Claimant continued to be in an unhealthy co-dependent relationship. It was noted that Claimant could complete ADLs without assistance. It was noted that Claimant maintained overall stable mental health.

Hospital documents (Exhibits 25-37) from an admission dated [redacted] were presented. It was noted that Claimant presented with complaints of tremors. A history of cerebral palsy was noted. It was also noted that Claimant reported daily alcohol consumption of up to 2-3 pints of vodka. Claimant also reported abusing cocaine and marijuana several times per month. An unsuccessful rehab stint from the year prior was noted. It was noted that Claimant's admission was complicated by a seizure that was likely due to alcohol withdrawal. It was noted that Claimant was transferred to an inpatient psychiatric facility on [redacted]. A primary assessment of acute alcohol intoxication was noted. Discharge medications included Protonix, Multivitamin, Phenobarbital, and Ativan. A discharge date of [redacted] was noted.

Medication review notes (Exhibits A46-A49) dated [redacted] were presented. It was noted that Claimant had no recent stressors. It was noted that Claimant's clinical condition was stable.

Medication review notes (Exhibits A42-A45) dated [redacted] were presented. It was noted that Claimant had no recent stressors. An ongoing prescription for Paxil was noted.

Medication review notes (Exhibits A38-A41) dated [redacted] were presented. It was noted that Claimant had no recent stressors. It was noted that Claimant denied delirium, black-outs, and seizures. It was noted that Claimant continued to abuse alcohol and drugs. An ongoing prescription for Paxil was noted.

Medication review notes (Exhibits A34-A37) dated [redacted] were presented. It was noted that Claimant had no recent stressors. It was noted that Claimant denied delirium, black-outs, and seizures. It was noted that Claimant continued to abuse alcohol and drugs. An ongoing prescription for Paxil was noted.

Medication review notes (Exhibits A30-A33) dated [redacted] were presented. It was noted that Claimant had no recent stressors. It was noted that Claimant continued to abuse alcohol and drugs. An ongoing prescription for Paxil was noted.

Medication review notes (Exhibits A26-A29) dated [redacted] were presented. It was noted that Claimant had no recent stressors. An ongoing prescription for Paxil was noted.

A psychiatric evaluation (Exhibits A1-A9) dated [redacted] was presented. The evaluation was noted as completed by a psychiatrist from a treating mental health agency. It was noted that Claimant continued to be dependent on alcohol and marijuana. It was noted that Claimant smelled like marijuana and alcohol. A history of 8 psychiatric hospitalizations, most recently in 2011, was noted. Notable observations of Claimant included the following: marginal hygiene, marginal grooming, orientation x4, cooperative, eurythmic mood, constricted affect, intact memory, normal speech, fair concentration, no gait impairment, pre-occupied thought content, no suicidal or homicidal ideation, intact thought process, no hallucinations, fair judgment, and fair insight. A diagnosis of major depressive disorder was noted. Claimant's GAF was noted to be 55. Paxil was listed as a current medication. A recommendation of substance abuse rehabilitation was noted.

Medication review notes (Exhibits A22-A25) dated [redacted] were presented. An ongoing prescription for Paxil was noted.

Claimant testified that she cerebral palsy significantly impacts her ambulation, sitting, standing, and lifting abilities. Claimant's testimony was consistent with the testimony of her clinical specialist. Claimant and her specialist testified that Claimant ascends stairs by sitting on one and moving up the stairs in backwards fashion. Claimant's clinical specialist testified that it took Claimant longer than expected to walk to the hearing room. Claimant's clinical specialist testified that Claimant struggles with holding glasses and pens. Claimant testified that she is restricted to lifting of 10 pounds and walking of one block before her legs and feet hurt. Claimant testified that she can only sit for 5 minutes before her legs hurt and prevent further sitting.

The testimony of Claimant and her clinical specialist was highly indicative of severe impairments. The testimony was completely unsupported by presented documentation.

Zero treatment records for cerebral palsy were presented. A severe impairment cannot be presumed solely based on testimony from non-medical sources and a mere diagnosis.

Even psychiatrist statements did not support physically-based restrictions related to cerebral palsy. The only apparent reference to Claimant's physical abilities noted that Claimant had a normal gait.

Documentary evidence of the severity or type of cerebral palsy which Claimant has was not presented. A hospitalization primarily for substance abuse where cerebral palsy is referenced in documentation is not sufficient to establish exertional restrictions.

Presented documents verified ongoing and lengthy treatment for depression. The evidence was sufficient to presume a degree of concentration and social interaction difficulties.

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.

Claimant's most prominent impairment appears to be cerebral palsy. Listing 11.07 states that disability is established by the following:

> **11.07 *Cerebral palsy***. With:
> A. IQ of 70 or less; or
> B. Abnormal behavior patterns, such as destructiveness or emotional instability; or
> C. Significant interference in communication due to speech, hearing, or visual defect; or
> D. Disorganization of motor function as described in 11.04B

Evidence of a low I.Q., communication deficits, and/or disorganization was not verified. The analysis will consider if Claimant is disabled based on abnormal destructiveness or emotional instability.

Claimant's clinical specialist testified that she worked with Claimant since 2007. Claimant's specialist testified that Claimant's history includes a loss of child custody and a history of alcoholism. Claimant's clinical specialist testified that Claimant previously overdosed on medications; it was not clear whether the overdose was intentional. The testimony is somewhat indicative of abnormal behavior patterns.

Claimant's clinical specialist testified that Claimant attempted to attend school through her mental health treating program. Claimant's clinical specialist testified that Claimant lasted only 2 days before exiting the program. Claimant's clinical specialist testified that Claimant also was unable to complete employment training in the past.

Claimant's clinical specialist testified that Claimant has "shiny ball syndrome." The testimony implied that Claimant is unable to stay on task and to maintain persistence for employment.

Claimant's clinical specialist gave credible and compelling testimony of Claimant's psychological treatment history. The evidence was also not particularly useful in determining the materiality of Claimant's substance abuse.

It was not disputed that Claimant is a cocaine and alcohol abuser. Theoretically, Claimant's substance abuse history cold bolster support for finding that Claimant has tendencies of destructiveness and/or emotional instability. Excusing or blaming Claimant's continued substance abuse on cerebral palsy is completely unsupported by presented documentation. Such abdication of responsibility is also insulting to persons with cerebral palsy with verified links between brain development and behavior patterns; Claimant presented no evidence of such a link.

Presented documentation from Claimant's psychiatrist stated that Claimant showed fair judgment, fair insight, and fair concentration. It was also noted that Claimant was in a codependent relationship. The evidence was mildly supportive of abnormal behavior patterns. The evidence was also consistent with symptoms associated with substance abuse.

Claimant's clinical specialist's testimony was detailed and compelling, but the testimony painted a fairly different picture of Claimant's abilities than her psychiatrist. SSR 06-03p states that licensed physicians and licensed or certified psychologists are acceptable medical sources; clinical specialists are not "acceptable medical sources". SSR 06-03p goes on to state that only "acceptable medical sources" can give medical opinions and/or be considered as treating sources. One moral to be taken from SSR 06-03p is that a claim of disability should not be so heavily reliant on the testimony of a clinical specialist; at least not unless the testimony is highly consistent with statements from an acceptable medical source.

Claimant's psychiatrist determined that Claimant's GAF was 55. The Diagnostic and Statistical Manual of Mental Disorders (4^{th} edition) (DSM IV) states that a GAF within the range of 51-60 is representative of someone with moderate symptoms or any moderate difficulty in social, occupational, or school functioning. Moderate restrictions, particularly in the midst of substance abuse, are not highly indicative of disability. It is also problematic that specific psychological symptoms were not well identified within presented records.

Treatment records noted that Claimant denied experiencing hallucinations or suicidal ideation. Treatment records noted normal speech, normal thought process, and intact memory. These considerations are supportive in finding that Claimant. These considerations are supportive in finding that Claimant can maintain employment, and therefore, does not meet the SSA listing for cerebral palsy.

A listing for affective disorder (Listing 12.04) was considered based on a diagnosis 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.

Based on the presented evidence, it is found that Claimant does not meet a SSA listing. Accordingly, the disability analysis may proceed to the fourth step.

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 her only employment from the last 15 years was for an 8 month stint in 2001 as a direct care worker. Claimant testified that her duties involved assisting disabled individuals, presumably with ADLs. Claimant testified that she was fired for missing work.

For purposes of this decision, it will be found that Claimant's lack of judgment would prevent the performance of caretaker type employment. Accordingly, 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 Claimant restrictions were not presented. Restrictions can be inferred based on presented documents.

As noted in the second step of the analysis, no exertional restrictions were established. For purposes of this decision, it will be presumed that Claimant is restricted to performing sedentary, light, or a medium level of employment. Claimant is left with psychological restrictions to establish a disability.

As noted in the third step of the analysis, Claimant's GAF was indicative of moderate restrictions, lapses in judgment, and less than ideal insight. Moderate restrictions to concentration and social interaction can be presumed. Such restrictions would allow Claimant to perform non-complex employment not requiring significant amounts of judgment. Such employment would include cashier, office work, janitorial, and assembly-type work. Evidence of the availability of such employment was not presented. The employment is presumed to be sufficiently available so that Claimant's employment base is not significantly eroded.

Based on Claimant's exertional work level (medium), age (younger individual) education (high school), employment history (unskilled), Medical-Vocational Rule 203.28 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 MA 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 MA benefit application dated [redacted], including retroactive MA benefits from 10/2013, 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: 3/2/3015

Date Mailed: 3/2/2015

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: [redacted]