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

IN THE MATTER OF:

Reg. No.:	15-003554
Issue No.:	2009
Case No.:	
Hearing Date:	April 22, 2015
County:	Macomb (20)

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 April 22, 2015, from Warren, Michigan. Participants included the above-named Claimant. testified and appeared as Claimant's authorized hearing representative (AHR). , Claimant's brother, testified on behalf of Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included , hearings facilitator.

ISSUE

The issue is whether DHHS 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 , Claimant applied for MA benefits, including retroactive MA benefits from January 2014.

2. Claimant's only basis for MA benefits was as a disabled individual.

3. On , the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 1-2).

4. On ██████, DHHS denied Claimant's application for MA benefits and mailed a Benefit Notice (Exhibits 27-28) informing Claimant's AHR of the denial.

5. On ██████, Claimant's AHR requested a hearing disputing the denial of MA benefits.

6. On ██████, an administrative hearing was held.

7. During the hearing, Claimant and DHHS waived the right to receive a timely hearing decision.

8. During the hearing, the record was extended 17 days- 14 days for Claimant to submit Claimant's hospital records from January 2014 and 3 additional days for DHHS to submit written objections to the admission of Claimant's documents; an Interim Order Extending the Record was subsequently mailed to both parties.

9. On ██████, Claimant submitted additional documents (Exhibits B1-B162); DHHS did not subsequently submit objections.

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

11. Claimant alleged disability based on restrictions related to ongoing breathing restrictions and complications related to a coma.

CONCLUSIONS OF LAW

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

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

under FIP-related categories. *Id.* 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 DHHS 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 DHHS regulations. BEM 260 (July 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 2014 monthly income limit considered SGA for non-blind individuals is $1,070.

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.

Hospital documents (Exhibits 8-26) from an admission dated [redacted], were presented. It was noted that Claimant presented with complaints of persistent cough (ongoing for 5 days), chest pain, and breathing difficulties. A history of HTN was noted. On [redacted], Claimant's body temperature was 104 degrees. Heart testing noted a 55% ejection fraction. An impression of abnormal lung density suspicious for pneumonia was noted. Moderate to severe patchy airspace disease in Claimant's lungs was noted. Claimant was placed on a ventilator after respiratory failure occurred. Noted discharge diagnoses included bilateral multilobar pneumonia, viral pneumonia, severe hypoxia, respiratory failure, and tachycardia. It was noted that Claimant was discharged on [redacted] and transferred to another hospital.

Hospital documents (Exhibits B1-B162) from [redacted], were presented. It was noted that Claimant presented with sepsis and respiratory failure complications. It was noted that Claimant was not oxygenating, developed ARDS, and decompensating. Claimant was placed on an oscillator and displayed hemodynamic instability. It was noted that after two weeks in the hospital, it was difficult to wean Claimant from mechanical ventilation. Further complications included fever, urine infections, tachycardia, deep vein thrombosis, and leukocytosis. Claimant was briefly transferred to the medical progressive care unit before returning to ICU with another episode of septic shock and staph infection. Claimant was intubated and a slow recovery over several weeks was noted. Active problems noted at discharge included the following: influenza, acute and chronic respiratory failure, sepsis, HTN, atrial fibrillation, critical illness myopathy, heterotopic ossification, deep vein thrombosis, right-sided carpal tunnel syndrome, chronic pneumothorax, and thrush. A discharge date of [redacted], was noted.

Hospital documents (Exhibits A1-A28) from [redacted], were presented. Claimant's complications since January 2014 included the following: septic shock/dehydration, bacteremia, fungal infection, hepatic abscess, ventilator-dependent respiratory failure, chest tubes, bilateral deep vein thrombosis without pulmonary embolism, atrial-fibrillation (currently sinus tachycardia), acute kidney injury, bilateral internuclear ophthalmoplegia, urinary tract infection, and retinal hemorrhaging. A knee x-ray was noted as showing extensive muscle calcification; a recommendation of conservative therapy was recommended by orthopedic specialists. Claimant's condition was noted as expected to improve. Discharge diagnoses included CIM (presumed to be critical illness myopathy). A discharge date of [redacted] was noted. Discharge medications

included the following: acetaminophen, tramadol, metoprolol, Quetiapine Fumarate, omeprazole, tamsulosin, rivaroxaban, melatonin, alprazolam, tryspin, Sennosides-Docusate, Oxycodone, and diclofenac. Claimant's right-sided loculated pnemothorax was noted as stable; outpatient follow was planned.

Claimant's hospitalization from April 2014 included inpatient physical therapy, occupational therapy, and rehab nursing. PT notes (Exhibits A3-A7) indicated that Claimant could perform all of the following independently: rolling in bed, sitting in bed, and sitting-to-stand. Claimant was able to ambulate 200 feet with a walker and standby assistance. Claimant was able to mount a six inch curb and climb 10 stairs, each with standby assistance. Claimant needed minimal assistance with lower dressing.

Spirometry test results (Exhibits A26-A28) dated [redacted], was presented. Post-bronchodilator testing was not noted. Claimant's best pre-bronchodilator FVC was 1.98; this was noted as 35% of predicted. Claimant's best FEV1 was noted to be 1.78; this was noted to be 38% of predicted. A diagnosis of severe obstructive airways disease was noted.

Chest radiology notes (Exhibit A29) dated [redacted], was presented. An impression of a slightly smaller large right-sided pneumothorax was noted.

Chest radiology notes (Exhibit A30) dated [redacted], was presented. An impression of improved right-sided pneumothorax was noted.

Chest radiology notes (Exhibit A31) dated [redacted], was presented. An impression of interval resolution of right-sided pneumothorax was noted.

Venous duplex ultrasound examination results (Exhibits A32-A33) dated [redacted], were presented. Deep vein thrombosis, with the appearance of chronic disease, was noted on the left. Significant resolution was noted in the thrombus, compared to a previous examination.

Spirometry test results (Exhibits A34-A36) dated [redacted], was presented. Post-bronchodilator testing was not noted. Claimant's best pre-bronchodilator FVC was 3.93; this was noted as 69% of predicted. Claimant's best FEV1 was noted to be 3.47; this was noted to be 76% of predicted.

Chest radiology test results (Exhibit A39) dated [redacted], was presented. An impression of re-demonstration of bilateral interstitial opacities and emphysematous changes were noted.

X-ray reports of Claimant's right knee (Exhibits A40-A41) dated [redacted], was presented. An impression of myositis ossification was noted.

Venous duplex ultrasound examination results (Exhibits A42-A43) dated [redacted], [redacted], were presented. Deep vein thrombosis, with indeterminate age, on the left side was noted. A normal right-sided examination was noted.

X-ray reports of Claimant's right knee (Exhibits A44-A45) dated [redacted], was presented. An impression of heterotopic ossification was noted.

A whole body scan report (Exhibits A46-A48) dated [redacted], was presented. The report appeared to list mixed results in attempting to date Claimant's knee problems.

Venous duplex ultrasound examination results (Exhibits A49) dated [redacted], were presented. Deep vein thrombosis, with the appearance of chronic disease, was noted on the left.

X-ray reports of Claimant's right knee (Exhibits A51-A2) dated [redacted], was presented. An impression of stable heterotopic ossification was noted.

Hospital surgery documents (Exhibits A53-A55) were presented. Procedure dates of [redacted], and [redacted], were noted. A pre-operative diagnosis of traumatic myositis ossifications was noted. It was noted that Claimant underwent heterotopic ossification resection of the right medial knee.

A Medical Examination Report (Exhibits A63-A64) dated [redacted], was presented. The form was completed by an internal medicine physician with an approximate 11 month history of treating Claimant. Claimant's physician listed diagnoses of s/p long admission to ICU due to respiratory failure, knee pain, and arthritis. Shortness of breath and right knee swelling were noted as physical examination findings. An impression was given that Claimant's condition was stable. It was noted that Claimant can meet household needs. The physician also wrote a letter (Exhibit A65) stating that Claimant was unable to work. Limitations in comprehension and following simple directions were noted.

In all, Claimant was hospitalized for over three months in early 2014. Claimant testified that he was comatose from January 2014 until early March 2014, but for a brief period of consciousness in February 2014. Claimant testified that he required 6 surgeries while he was comatose. Claimant testified that he was on a feeding tube until early April 2014.

Claimant's physician stated Claimant has restrictions in following simple directions and comprehension. The stated restrictions were plausible given Claimant's severe medical history. The restrictions were not detailed or particularly consistent with other evidence.

Claimant testified that he has numerous medical problems since his hospitalization. Claimant testified he used a breathing machine at home until September 2014. Claimant testified that his breathing has diminished since being hospitalized.

Claimant says he has right hand nerve damage from an unspecified injection. Claimant testified that he attended occupational therapy for from May 2014-August 2014 but it did not help.

Client says he has right knee calcification. Client says his knee locks-up on him. He says he needs surgery. Client says he fell down three times this year. Client says he had surgery a month ago to remove calcium from knee. Client says he's had little improvement since surgery.

Claimant says if he sits for a long time, then his neck and back hurts. Claimant thinks his neck is damaged from being in a coma. Claimant says he went to physical therapy from May 2015- December 2014 for neck pain.

Claimant testified that his lungs currently are at 72%. Claimant's last presented Spirometry testing (from August 2014) verified a severe restrictive ventilatory defect Though Claimant's tests August 2014 results significantly improved from April 2014 testing, some degree of ongoing respiratory dysfunction can be inferred.

Generally, Claimant's testimony concerning ongoing impairments was consistent with presented medical evidence. It is found that Claimant established severe impairments to his ability to breathe, stand, lift, sit, and use his right hand. 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 listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's neck pain complaints. This listing was rejected due to a failure to establish a spinal disorder resulting in a compromised nerve root.

A listing for chronic pulmonary insufficiency (Listing 3.02) was considered based on Claimant's complaints of dyspnea. The listing was rejected due to Claimant's most recent Spirometry testing failing to meet listing requirements.

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

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

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

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

Claimant testified that he worked as a gas station assistant manager as of January 2014. Claimant testified that his duties included stocking inventory, cashier, and completing paperwork. Claimant testified that he can neither lift nor stand long enough to perform his previous duties.

Claimant testified that he previously worked as a baker and as a food deliverer. Claimant testified that both jobs required more standing and lifting than he can currently perform.

Claimant's testimony that he is unable to perform the standing and lifting required of past employment was consistent with presented evidence. Accordingly, it is found that Claimant cannot perform past employment and the disability 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.*

Claimant's physician stated Claimant's ongoing restrictions in the Medical Examination Report dated [redacted]. Claimant's physician opined that Claimant was restricted from performing repetitive pushing/pulling and operative foot/leg controls. Claimant was restricted to occasional lifting/carrying of less than 10 pounds, never more.

Presented medical records verified that Claimant has an ongoing diagnosis of heterotopic ossification. Presented records also verified that Claimant underwent at least one knee surgery in 2015 to repair knee damage. It is surprising that Claimant's physician did not note standing restrictions, though severe lifting/carrying and operating leg control restrictions were noted.

Claimant can shower without help. Client says he fell once while getting dressed. Client says falling is less of a problem than it used to be. Client says he slipped on some wet ground approximately 2 months earlier. Claimant says he last fell in 2014.

Claimant testified that when he sits too long, he can develop blood clots. Claimant testified that at one point, he had six blood clots in his right knee; Claimant testified that he currently has one blood clot. Client says he has to stand every hour to prevent the forming of further blood clots. Claimant's testimony was not indicative of restrictions, as most sedentary jobs would likely allow Claimant to stand every hour. This conclusion is consistent with Claimant's physician's statement that Claimant can sit about 6 hours per 8 hour workday (see Exhibit A64). This conclusion is also consistent with Claimant's

testimony that he used to take blood thinner medication, but currently only takes baby aspirin.

Presented evidence established that Claimant was incapable of natural breathing from January 2014-April 2014. After Claimant left the hospital, ongoing complications with right hand nerve damage, breathing, and blood clots were verified. It was also verified that Claimant's knees required surgery in 2015. Though Claimant has experienced some improvement in breathing, standing, and general medical health throughout 2014, the sum of Claimant's problems justify a finding that Claimant is currently incapable of performing any employment. Accordingly, it is found that Claimant is a disabled individual and that DHHS improperly denied Claimant's MA eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that DHHS improperly denied Claimant's application for MA benefits. It is ordered that DHHS:

(1) reinstate Claimant's MA benefit application dated [redacted], including retroactive MA benefits from January 2014;
(2) evaluate Claimant's eligibility for benefits subject to the finding that Claimant is a disabled individual;
(3) initiate a supplement for any benefits not issued as a result of the improper application denial; and
(4) schedule a review of benefits in one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

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

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

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

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: