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

IN THE MATTER OF:

[redacted]

Reg. No.: 15-012884
Issue No.: 2009
Case No.: [redacted]
Hearing Date: September 2, 2015
County: Wayne (17)

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 September 2, 2015, from Detroit, Michigan. Participants included the above-named Claimant. [redacted] testified and appeared as Claimant's authorized hearing representative (AHR). Participants on behalf of the Department of Michigan Health and Human Services (MDHHS) included [redacted], medical contact worker.

ISSUE

The issue is whether MDHHS 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 April 29, 2013, Claimant applied for MA benefits, including retroactive MA benefits from January 2013 (see Exhibits 16-17; 43-44.

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

3. On March 6, 2015, the Medical Review Team (MRT) determined that Claimant was not a disabled individual (see Exhibits 13-15).

4. On June 17, 2015, MDHHS denied Claimant's application for MA benefits and mailed a Facility Admission Notice informing Claimant's AHR of the denial.

5. On July 9, 2015, Claimant's AHR requested a hearing disputing the denial of MA benefits.

6. As of the date of the administrative hearing, Claimant was a 64-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 semi-skilled employment, with no known transferrable job skills.

10. Claimant alleged disability based on restrictions related to back pain.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and 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 MDHHS 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 MDHHS 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 CFR 413.913. An individual's subjective pain complaints are not, in and of themselves, sufficient to establish disability. 20 CFR 416.908; 20 CFR 416.929(a).

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

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

Claimant testified that she operates a [redacted]. During the hearing, Claimant was asked about her earnings. Claimant testified her [redacted] tax forms listed a gross profit of [redacted]. Claimant also testified that she paid [redacted] for labor expenses. Claimant testified that she had other expenses and her net profit for [redacted] was [redacted] which results in an average monthly income of [redacted]. Claimant testimony suggested her

earnings likely increased since then, but not to the point of earning SGA. Claimant's testimony was credible and unrebutted.

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.

Physician office visit notes (Exhibits A14-A15) dated January 9, 2013, were presented. It was noted that Claimant reported lumbar pain (10/10) with radiation to her right leg. It was noted that cortisone injections and chiropractor adjustments did not relieve pain. A lumbar MRI was planned.

Hospital documents (Exhibits 33-42; 60-63; A6) from an admission dated January 10, 2013, were presented. It was noted that Claimant presented with complaints of severe back pain (8/10), ongoing for 8 weeks. Claimant reported the pain radiated from her lower back through both legs and into her toes. Claimant also reported tingling and numbness. An MRI was noted to indicate L4-L5 central, right-sided, paracentral and foraminal disc protrusion into L5 causing nerve root compression. Spinal canal and bilateral neural foraminal stenosis was noted. Claimant testified she did not have health insurance at the time. Despite Claimant's lack of health insurance, a plan for L4-L5 fusion surgery was noted. It was noted that Claimant would benefit from inpatient rehabilitation, physical therapy, and occupational therapy. Claimant testified that she was unable to perform any outpatient therapy due to her lack of insurance. It was noted that Claimant underwent fusion surgery including facetectomy at L4-L5. Discharge instructions dated January 17, 2013 restricted Claimant from lifting, pushing, or pulling. Claimant's ambulation was noted to be restricted. A 2-wheeled walker was provided to Claimant.

Physician office visit notes (Exhibits A12-A13) dated January 28, 2013, were presented. It was noted that Claimant reported right foot pain (7/10) radiating through her leg and into her hip. Leg weakness was noted. A lifting restriction of 10 pounds was noted.

A radiology report of Claimant's lumbar spine (Exhibit A5) dated February 25, 2013, was presented. An impression of normal alignment following surgery was noted.

Physician office visit notes (Exhibits A10-A11) dated February 27, 2013, were presented. Claimant reported "feeling good" though right-sided lower back pain (3/10) was reported. It was noted that Claimant could increase activities as tolerated.

Physician office visit notes (Exhibits A8-A9) dated March 27, 2013, were presented. It was noted that Claimant presented for a post-surgery follow-up appointment. Claimant reported "feeling great" and no back pain though back soreness was reported. Claimant reported no leg pain. Histories of carpal-tunnel syndrome (CTS) and foot surgeries were noted. An assessment of lumbar radicular pain was noted. A plan to have Claimant continue wearing a back brace for 2 weeks was noted.

A radiology report of Claimant's lumbar spine (Exhibit A4) dated March 27, 2013, was presented. An impression of a stable postoperative spine was noted following radiology.

Physician office visit notes (Exhibit 67) dated August 8, 2013, were presented. A handwritten statement of prescriptions for Neurontin, Zoloft, and Ambien were noted.

Physician office visit notes (Exhibit 66) and lab results (Exhibits 68-71) dated May 2, 2014, were presented. A handwritten statement of a ganglion cyst and spur was noted.

A Medical Examination Report (Exhibits 64-65) was presented. A signature date was not indicated, though January 6, 2015 was stated to be the date of Claimant's most recent examination. The form was completed by a family practice physician with an approximate 6-year history of treating Claimant. Claimant's physician listed diagnoses of rectal prolapse, s/p lumbar laminectomy, bone disorder, and joint disorder. Active medications of Neurontin, Zoloft, Vicodin, and Flexeril were noted. It was noted that Claimant reported persistent pain and fatigue. An impression was given that Claimant's condition was stable. It was noted that Claimant cannot meet unspecified household needs.

An internal medicine examination report (Exhibits 50-58) dated January 12, 2015, was presented. The report was noted as completed by a consultative physician. Claimant reported complaints of chronic foot pain, depression, hyperlipidemia, right-knee pain due to a Baker's cyst, and a history of CTS causing wrist and hand pain. Tandem walk, toe walk, and heel walk were noted as slowly performed. Reduced ranges of motion were noted in Claimant's lumbar flexion (80°- normal 90°) and bilateral hip forward flexion (50°- normal 100°). The examining physician noted impressions that mirrored Claimant's complaints. It was noted that Claimant was able to perform all 23 listed work-related activities which included sitting, standing, lifting, carrying, stooping, bending, and reaching; standing was noted to be restricted due to pain. The examiner stated that clinical evidence did not support a need for a cane. Limited squatting and bending was noted.

Claimant testified her left foot is currently fractured. Medical documentation of the fracture, including onset date, was not presented. The fracture will not be considered in the analysis due to the lack of medical documentation.

Claimant testified she has difficulty performing repetitive actions with her hand and arms. Claimant testified she had CTS surgery on left wrist in 1980s. Claimant testified she also had a right-hand surgery for CTS. Claimant surgery history is too outdated to be relevant to ongoing restrictions. An impression of CTS by a consultative examiner was not persuasive due to the absence of support for the conclusion.

Claimant testified that her pre-fusion surgery symptoms included immense difficulty with walking and sleeping (due to pain). Claimant testified chiropractor adjustments and injections did not satisfactorily relieve her pain.

Presented evidence verified that Claimant underwent fusion surgery and a facetectomy in January 2015. Claimant testified she used a walker for about 2-3 months following surgery. Claimant testified she was able to walk (with pain) after that. Claimant testified her current morning pain is (4-5/10) though her back pain increases (8/10) throughout the day. Claimant testified that she takes Motrin to reduce her pain. Claimant also testified that chiropractor adjustments also help to reduce pain.

Presented records suggested that Claimant's surgeries greatly reduced Claimant's spinal discomfort, though some degree of pain persists. Presented evidence was sufficient to infer some degree of ambulation and lifting/carrying restrictions from back pain.

It is notable that Claimant appeared to not have access to health insurance throughout her healing process. Claimant credibly testified that her lack of insurance prevented her from undergoing physical therapy and perhaps medical treatment for pain.

Claimant also testified that she has foot spurs and a Baker's cyst on her knee. Claimant testified that both problems further limit her ambulation. Claimant's testimony was consistent with presented records.

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 listing for joint dysfunction (Listing 1.02) was considered based on Claimant's complaints of knee pain, foot pain, and history of CTS. The listing was rejected due to a failure to establish that Claimant is unable to ambulate effectively or perform fine and gross movements.

A listing for spinal disorders (Listing 1.04) was considered based on Claimant's lumbar complaints. This listing was rejected due to a failure to establish an ongoing spinal disorder resulting in a compromised nerve root. Nerve root compression was established but was resolved by surgery.

A listing for affective disorder (Listing 12.04) was considered based on evidence that Claimant takes anti-depressant medication (e.g. Zoloft). 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.

It is found that Claimant failed to establish meeting a SSA listing. Accordingly, the analysis moves 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 [redacted] years was as an [redacted]. Claimant testified that her income exceeded SGA when she also worked as a [redacted]. Claimant testified she provided care for children ranging from babies to school-aged children (during summers). Claimant testified her duties included serving food, reading, changing diapers, completing self-employment paperwork, and leading various activities (e.g. gardening). Claimant testified that her duties included lifting children (for the purpose of changing diapers on a changing table).

Claimant testified that she has regularly worked at her [redacted], though her hours are reduced. Claimant testified that she is unable regularly to lift children. Claimant also testified that cleaning is difficult for her to perform.

Claimant's employment was indicative of what SSA defines as light employment (see below for the definition). This finding is consistent with the strength level of nursery school attendant within the Dictionary of Occupational Titles. A finding of whether Claimant can perform light employment will be reserved for the fifth and final step of the analysis.

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.

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 non-exertional. 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 (e.g. 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 past employment, a determination of disability is dependent on Claimant's ability to perform light employment. Social Security Rule 83-10 states that the full range of light work requires standing or walking, off and on, for a total of approximately 6 hours of an 8-hour workday.

Physician statements of restrictions were provided. SSR 96-2p states that if a treating source's medical opinion is well-supported and not inconsistent with the other substantial evidence in the case record, it must be given controlling weight (i.e. it must be adopted). 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, Claimant's physician provided various restrictions. It was noted that Claimant's limitation(s) was expected to last 90 days. Claimant was restricted to occasional lifting/carrying of 10 pounds, never 20 pounds or more. Claimant's physician opined that Claimant was restricted from performing the following repetitive actions: simple grasping, pushing/pulling, reaching, fine manipulating, and operating leg/foot controls.

Claimant's AHR contended that Claimant's physician's restrictions were consistent with Claimant's testimony. Claimant's AHR also contended that the restrictions should be followed; presented evidence dictates otherwise.

Claimant's physician stated restrictions were justified by the following: s/p laminectomy, degenerative osteoarthritis, and "multiple joint." It is not known what Claimant's physician intended by "multiple joint." If Claimant has multiple joint disorders, accompanying treatment documents were not presented. If Claimant has osteoarthritis of her feet, accompanying treatment records justifying the conclusion were also not presented.

The most notable basis for restriction was Claimant's s/p laminectomy. It is notable that s/p laminectomy was the very first stated reason for provided restrictions; this suggested it was the most compelling reason for justifying restrictions.

During the hearing, Claimant's AHR stated that Claimant did not undergo laminectomy surgery, she underwent fusion surgery (records also verified a facetectomy). Deference cannot be given to Claimant's physician when the physician twice misstated the surgery justifying restrictions. Claimant's physician's error justifies rejecting all provided restrictions.

Despite a rejection of the physician's stated restrictions, Claimant's s/p fusion surgery status, Baker's cyst and osteoarthritis (indicated by a consultative examiner, though not verified), and ongoing back pain (consistent with treatment records, fusion surgery, a

need for Flexeril) were verified. Statements from a consultative examiner were also indicative of a restriction to sedentary employment (e.g. reduced ranges of motion and restricted standing due to pain). Presented evidence sufficiently verified that Clamant is unable to perform the ambulation required of light employment.

Based on Claimant's exertional work level (sedentary), age (advanced age), education (high school with no direct entry into skilled employment), employment history (semi-skilled with no known transferrable skills), Medical-Vocational Rule 201.06 is found to apply. This rule dictates a finding that Claimant is disabled. Accordingly, it is found that MDHHS improperly 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 MDHHS improperly denied Claimant's application for MA benefits. It is ordered that MDHHS:

(1) reinstate Claimant's MA benefit application dated April 29, 2013, including retroactive MA benefits from January 2013;
(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 no less than one year from the date of this administrative decision, if Claimant is found eligible for future benefits.

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

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

Date Signed: **9/4/2015**

Date Mailed: **9/4/2015**

GC/tm

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: [redacted]