

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2007-28509
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 30, 2008
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Jay W. Sexton

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, an in-person hearing was held on January 30, 2008 in Ypsilanti. Claimant personally appeared and testified.

Claimant was represented by [REDACTED].

The department was represented by [REDACTED]

Claimant requested additional time to submit new medical evidence. Claimant submitted new medical evidence (Exhibit C1) at the hearing. Claimant's medical evidence (old and new) was submitted to the State Hearing Review Team (SHRT) on January 31, 2008. Claimant waived the timeliness requirement so that her new medical evidence could be reviewed by SHRT. After a second eligibility denial by SHRT, the Administrative Law Judge issued the following decision.

ISSUE

Did claimant establish a severe physical impairment expected to preclude her from substantial gainful work, **continuously**, for one year, (MA-P) purposes?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

(1) Claimant is a MA-P/retro applicant (April 3, 2007) who was denied by SHRT (October 16, 2007) due to claimant's failure to establish an impairment which meets the severity and duration rules. Claimant requests retro MA-P for February 2007 only.

(2) Claimant's vocational factors are: [REDACTED]; post high school education—none; work experience—Currently employed as a customer service representative under the auspices of [REDACTED]. Claimant has also worked as an events coordinator for [REDACTED] and for [REDACTED], Incorporated.

(3) Claimant is currently performing Substantial Gainful Activity (SGA) since she works 25 hours a week, at home and earns between [REDACTED] and [REDACTED] per month.

- (4) Claimant has the following unable-to-work complaints:
- (a) Bilateral subluxation of the knees;
 - (b) Difficulty walking due to knee dysfunction (since age 4);
 - (c) Wears braces on both knees in order to walk;
 - (d) Seasonal asthma;
 - (f) Chronic bilateral knee pain.

- (5) SHRT evaluated claimant's medical evidence as follows:

OBJECTIVE MEDICAL EVIDENCE ([REDACTED])

Claimant was treated [REDACTED] for syncope. Specialized testing reported no pulmonary embolism and no evidence of a structural heart disease. On examination, [REDACTED], the heart was functioning with regular rate and rhythm. Blood pressure was 113/56. The lung fields were clear to auscultation without rales, wheeze or rhonchi. The condition is medically managed.

On medical review [REDACTED], strength was 5/5 in all extremities. Sensation was fully intact and symmetrical. The neuromuscular examination was grossly intact (pages 130, 127, 3 and pages 6-7).

ANALYSIS: The conditions are medically managed. No severe breathing or musculoskeletal impairment was clinically documented.

- (6) Claimant lives alone and performs the following Activities of Daily Living (ADLs): dressing, bathing, cooking, dish washing, light cleaning (sometimes), vacuuming and grocery shopping.

- (7) Claimant does not have a valid driver's license but does not drive. Claimant is a highly skilled computer operator. She uses a computer on a daily basis in order to perform her work as a customer service representative.

- (8) The following medical records are persuasive:

See the SHRT Summary in paragraph #5, above.

- (9) The probative medical record shows that claimant is currently employed 25 hours a week as a customer service representative. Claimant obtained this position through [REDACTED]. Claimant earns approximately [REDACTED] to [REDACTED] per month. Claimant's current employment is Substantial Gainful Activity for MA-P purposes.

(10) The medical evidence establishes that claimant's most difficult impairments are bilateral knee dysfunction and chronic seasonal asthma. However, at this time, the medical record establishes that claimant is capable of performing sedentary, skilled work as a computer operator/customer service representative.

(11) Claimant recently applied for federal disability benefits with the Social Security Administration. Her claim was initially denied; she recently appeared before a Social Security Administrative Law Judge. A decision from the Administrative Law Judge is expected in the near future.

(12) The medical records show the following diagnosis:

- (1) Unexplained syncope;
- (2) Asthma;
- (3) Chronic patella subluxations.

(13) Claimant uses a quad-based cane and bilateral knee braces for ambulation.

(14) On July 23, 2008, SSA approved for claimant for RSDI & SSI benefits. The SSA disability onset date is December 24, 2007.

CONCLUSIONS OF LAW

LEGAL BASIS

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Since the Social Security Administration has awarded claimant RSDI and SSI, it is not necessary for the Administrative Law Judge to rule on the issue of disability. The Administrative Law Judge concludes that claimant was disabled for MA-P purposes in April 2007. When RSDI/SSI is approved by SSA, applicants are automatically disabled for MA-P purposes. PAM 600; PEM 260. Claimant's SSA award makes claimant categorically disabled for MA-P purposes effective April 2007.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, decides the claimant is disabled for MA-P purposes effective April 2007. Since this decision is based on the RSDI/SSI approval by the Social Security Administration, no follow-up medical review is required.

The prior denial of the department is REVERSED.

SO ORDERED.

/s/ _____
Jay W. Sexton
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 17, 2009

Date Mailed: February 17, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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 was made, within 30 days of the receipt date of the rehearing decision.

JWS/sd

cc:

