

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: 2007-12579
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 12, 2007
Genesee 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 July 12, 2007 in Flint. Claimant personally appeared and testified under oath.

Claimant was represented at the hearing by [REDACTED] from [REDACTED],
[REDACTED]

The department was represented by Sherry Burton (ES).

Claimant requested additional time to submit new medical. The new medical evidence was received and submitted to the State Hearing Review Team on August 12, 2007. Claimant waived the timeliness requirements so her new medical evidence could be reviewed by SHRT.

ISSUES

(1) Did claimant establish a severe mental impairment expected to preclude her from substantial gainful work, **continuously**, for one year (MA-P) or 90 days (SDA)?

(2) Did claimant establish a severe physical impairment expected to preclude her from substantial gainful work, **continuously**, for one year (MA-P) or 90 days (SDA)?

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 an MA-P/Retro/SDA applicant (August 11, 2006) who was denied by SHRT (May 10, 2007) due to claimant's ability to perform medium work. Claimant requests retro MA for May, June, and July 2006.

(2) Claimant's vocational factors are: age—43; education—high school diploma; post high school education—two years of studies at [REDACTED] (art major); work experience—massage therapist.

(3) Claimant has not performed substantial gainful activity (SGA) since August 2003 when she worked as a massage therapist.

(4) Claimant had the following unable-to-work complaints:

- (a) Depression;
- (b) Anxiety;
- (c) Chronic pancreatitis;
- (d) Must stay in bed three days a week;
- (e) Lumbar fracture;
- (f) Acid reflux disease;
- (g) Hernia;
- (h) Gastritis;
- (i) Internal bleeding;
- (j) Incontinence and bladder dysfunction.

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

OBJECTIVE MEDICAL EVIDENCE ([REDACTED])

Claimant was admitted [REDACTED] due to abdominal pain. She was found to have acute recurrent pancreatitis. She had a history of alcohol abuse, but denied current use. She clinically improved and was discharged in stable condition (Page 20).

* * *

ANALYSIS:

Claimant's weight loss does not meet the weight loss tables. Her albumen of 4.2 does not meet the 3.0 or less listing for weight loss. Her calcium of 9.7 does not meet the 8.0 or less listing for weight loss. Her bowel sounds were hyperactive and breath sounds were distant. But there were no wheezes, rhonchi or rales noted. Claimant's musculoskeletal and neurological exams were basically within normal limits. The objective findings do not support the limitations on the 49 form. Claimant has a history of alcohol abuse, but reports no current use.

- (6) Claimant performs the following activities of daily living (ADLs): Dressing, bathing, cooking (sometimes), dishwashing, light cleaning (sometimes), laundry and grocery shopping (needs help). Claimant lives with her divorced parents.

- (7) Claimant does not have a valid driver's license and does not drive an automobile. Claimant is computer literate.

- (8) The following medical records are persuasive:

- (a) An [REDACTED] internal medicine narrative report was reviewed.

* * *

- (9) The internist provided the following impressions:

- (1) Status post fracture involving the lumbosacral spine with associated low back pain. She presently takes Vicodin, one daily, for her back pain.
- (2) History of chronic pancreatitis.

- (3) Chronic alcoholism. Patient has been abstinent for the past year.
- (4) Anxiety neurosis with associated panic attacks.
- (5) COPD moderately severe secondary to cigarette smoking (emphysema).
- (6) Major depression;
- (7) History of GERD.
- (8) Degenerative joint disease of the lumbar spine;
- (9) Psoriasis and eczema which is generalized.
- (10) Recent weight loss.

(9) The probative medical evidence, standing alone, does not establish an acute psychiatric/psychological condition which, by itself, is expected to prevent claimant from performing customary work functions for the required period of time. There are no clinical reports by a psychiatrist or psychologist to establish a severe mental impairment. Claimant did not provide a DHS-49D or a DHS-49E.

(10) The probative medical evidence, standing alone, does not establish an acute physical condition expected to prevent claimant from performing all customary work functions for the required period of time. The examining internist (consultant) provided the following diagnoses: Status post fracture of the lumbosacral spine, history of chronic pancreatitis, chronic alcoholism, anxiety neurosis, COPD, major depression, history of GERD, degenerative joint disease of the lumbar spine, psoriasis and eczema, and recent weight loss. The physician who completed the 49-A states the claimant is basically unable to perform any work activities.

(11) Claimant's most prominent complaint is her low back pain, chronic pancreatitis, gastroesophageal reflux disease and depression.

(12) Claimant has applied for federal disability benefits. The Social Security Administration approved claimant for SSI benefits on January 20, 2009. The SSI disability onset date is March 15, 2005.

CONCLUSIONS OF LAW

LEGAL BASE

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).

The Social Security Administration has awarded claimant SSI, 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/SDA purposes starting May 2006. When SSI is approved by SSA, applicants are automatically disabled for MA-P/SDA purposes. PAM 600; PEM 260. Claimant's SSA award makes claimant categorically disabled for MA-P/SDA purposes effective May 2006.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant is disabled for MA-P/SDA purposes effective May 2006. Since this decision is based on the SSI approval by the Social Security Administration, no follow-up medical review is required.

The prior denial by the department is, hereby, REVERSED.

SO ORDERED.

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

Date Signed: February 25, 2009

Date Mailed: February 26, 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/tg

cc:

