

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: 2008-29243
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: 2502040802
Hearing Date:
October 23, 2008
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 in Flint on October 23, 2008. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Lavonia Alston (ES).

Claimant requested additional time to submit new medical evidence. Claimant waived the timeliness requirement so that his new medical evidence could be reviewed by SHRT. On November 6, 2008, SSA approved claimant for RSDI with an onset date of November 7, 2007.

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P) and 90 days (SDA)?
- (2) Did claimant establish a severe physical impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P) and 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/SDA applicant (April 29, 2008) who was denied by SHRT (September 4, 2008) based on insufficient medical evidence.

(2) Claimant's vocational factors are: age—44; education—high school diploma; post-high school education—none; work experience—short order cook.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a cook in 2007.

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

- (a) Legally blind;
- (b) Congestive heart failure;
- (c) Heart failure;
- (d) Depression;

(5) On November 6, 2008, SSA approved for RSDI with disability onset date of November 7, 2007.

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 State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

On November 6, 2008, SSA approved RSDI with disability onset date of November 7, 2007. Therefore, this ALJ does not have jurisdiction to rule on the issue of disability at this time.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the claimant meets the MA-P/SDA disability requirements under PEM 260/261. Claimant is disabled for MA-P/SDA purposes based on the recent RSDI approval by SSA.

Accordingly, the department's denial of claimant's MA-P/SDA application is, hereby, REVERSED.

The department shall evaluate claimant's financial eligibility and open claimant's MA-P/SDA case, effective April 2008, if claimant is financially eligible for MA-P/SDA.

SO ORDERED.

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

Date Signed: February 17, 2010

Date Mailed: February 17, 2010

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:

