

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: 2008-31034
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 2, 2008
Wayne 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, a telephone hearing was held in Detroit on December 2, 2008. Claimant personally appeared and testified under oath.

The department was represented by Debra McBryde (Medical Contact Worker).

Claimant requested additional time to submit new medical evidence. Claimant waived the timeliness requirement so that her new medical evidence could be reviewed by SHRT. On April 15, 2009, SSA approved claimant for SSI with an onset date of August 1, 2007.

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude him 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 him 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 (June 15, 2007) who was denied by SHRT (September 23, 2008) based on insufficient medical evidence.

(2) Claimant's vocational factors are: age—31; education—high school diploma; post-high school education—four semesters of nursing courses; work experience—janitor, cashier for [REDACTED].

(3) Claimant has not performed Substantial Gainful Activity (SGA) since she worked as a janitor at [REDACTED].

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

- (a) Sleep apnea;
- (b) Breathing problems;
- (c) Shortness of breath;
- (d) Depression;

(5) On April 15, 2009, SSA approved for SSI with disability onset date of August 1, 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 April 15, 2009, SSA approved SSI with disability onset date of August 1, 2009. Therefore, the 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 SSI approval by SSA.

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

The department shall open claimant's MA-P/SDA case, effective March 2007.

SO ORDERED.

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

Date Signed: February 22, 2010

Date Mailed: February 22, 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.

2009-31034/jws

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/tg

cc:

