

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: 2008-32144
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 5, 2008
Gladwin 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 Gladwin on November 5, 2008. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED]. The department was represented by Teri Ehle (ES).

Claimant requested additional time to submit new medical evidence. Claimant's medical evidence was submitted to the State Hearing Review Team on November 6, 2008. Claimant waived the timeliness requirement so her new medical evidence could be reviewed by SHRT. After SHRT's second disability denial, the Administrative Law Judge issued the decision below.

ISSUES

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

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 (May 19, 2008) who was denied by SHRT (October 6, 2008) based on claimant's ability to perform simple unskilled medium work. SHRT relied on Med-Voc Rule 203.11. Claimant requests retro MA for February, March and April 2008.

(2) Claimant vocational factors are: age—56; education—9th grade; post high school education—none; work experience—home health aid (under the offices of DHS), drycleaner's presser and laundromat worker.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since May 2007 when she was employed as a home health aid by DHS.

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

- (a) Back pain;
- (b) Leg pain;
- (c) Hand/shoulder pain;
- (d) Post traumatic stress disorder;
- (e) Depression.

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

OBJECTIVE MEDICAL EVIDENCE (██████████)

A psychiatric evaluation, dated ██████████ showed claimant was coherent and fairly talkative. She was spontaneous and appeared somewhat sad with some psycho motor retardation. There were no hallucinations. No agitation. No thought disorder. No evidence of any psychotic process. Her diagnosis included dysthymic disorder, late onset, rule out post traumatic stress disorder (PTSD) and learning disability (page 45). In fall ██████████, claimant reported compliance with medication. She reported she was sleeping well (page 46). Claimant was admitted in ██████████, due to an episode of syncope with a secondary fall and injury to the right side of her

head. An echocardiogram was normal with mild evidence of mitral and tricuspid regurgitation. MRI of the brain showed a small resolving hemorrhage which was likely due to the trauma. No mass lesion was noted and no evidence of stroke was noted. MRA of the carotid arteries was normal, with no evidence of stenosis. She was improved on discharge (page 19).

A DHS-49 form, dated [REDACTED], showed claimant had chronic back pain, osteoarthritis, gastroesophageal reflux disease (GERD), osteopenia, history of intracerebral bleed, dysthymic disorder, PTSD, hemorrhoids, left ear hearing loss and a learning disability. Claimant was 5'4" tall and 153 pounds. Her blood pressure was 125/76. Her musculoskeletal and neurological exams were within normal limits. She was noted to have limiting ambulation and left ear hearing deficit and dysthymic mood disorder (page 17). Claimant does not medically require an assistive device for ambulation (page 18).

(6) Claimant lives with her boyfriend and performs the following Activities of Daily Living (ADLs): dressing, bathing, dishwashing (sometimes), light cleaning (sometimes), vacuuming (sometimes), laundry (needs help) and grocery shopping (needs help). Claimant uses a cane approximately 30 times a month. She uses a shower stool approximately 60 times a month. She uses her crutches approximately 9 times a month. She does not use a walker or a wheelchair. She does not wear braces on her neck, back, arms, or legs. Claimant received in-patient hospital in [REDACTED] for several heart impairments, a resolving intracerebral bleed, a resolving urinary tract infection and depression. Claimant currently sees a psychiatrist bi-monthly and sees a mental health therapist bi-monthly.

(7) Claimant has a valid driver's license and drives an automobile approximately twice a month. Claimant is not computer literate.

(8) The following medical records are persuasive:

(a) An [REDACTED] [REDACTED] progress note was reviewed.

The psychiatrist provided the following history:

Claimant reports that she has been doing better. She stated as how for the past 2-3 weeks her mood has been much more stable and that she goes to bed happier and gets up happier. She also stated as to how she is dealing with her boyfriend differently, since every time he gets cranky “she walks out.” He, however, also has not been wanting her to leave which she threatens to do when she gets upset with him. Apparently, he believes her more than before and her intentions/threats are more effective than before. She appeared to be in better control than before. She, however, also tended to empathize with him for having some problems with his foot which is not healing properly. She reports to be sleeping quite well, taking Xanax off and on. She thinks that 60 mg of Celexa has helped, although she would like to have less depression. She reports no problem with appetite or significant weight changes. She talked at length about her interaction with her boyfriend.

The psychiatrist provided the following diagnoses:

- (1) Axis I—dysthymic disorder, late onset;
- (2) Post traumatic stress disorder, chronic.

(9) On [REDACTED], [REDACTED] approved claimant for [REDACTED]. The disability onset date is [REDACTED].

CONCLUSIONS OF LAW

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 [REDACTED] has determined that claimant is disabled for [REDACTED] purposes, it is not necessary for the Administrative Law Judge to rule on the issue of disability. The local office will determine whether claimant meets the financial eligibility standards for the programs in question.

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 purposes, for the reasons stated above.

/s/

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

Date Signed: May 6, 2009

Date Mailed: May 7, 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 mailing 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/vmc

cc:

