

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: 2008-11419
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 21, 2008
Calhoun 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 May 21, 2008 in Battle Creek. Claimant personally appeared and testified under oath.

Claimant was represented by [REDACTED] from [REDACTED].

At claimant's request, the record was left open for additional medical evidence in a second review by the State Hearing Review Team (SHRT). Claimant, on the record, waived the time limit for issuing this decision. Claimant's medical records were sent to SHRT on May 22, 2008. On May 29, 2008, SHRT approved claimant for MA-P and retro.

ISSUES

(1) Did claimant establish a severe mental impairment expected to preclude her 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 an MA-P applicant. Claimant is also an MA-P retro applicant (June 28, 2007) who was denied by SHRT (March 25, 2008) due to claimant's failure to establish an impairment which meets the severity and duration requirements for the retro period (March and April 2007).

(2) Claimant's vocational factors are: age—59; education—high school diploma; post high school education—none; work experience—laundry attendant.

(3) Claimant has not performed substantial gainful activity (SGA) since 2007 when she worked as a laundry aide.

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

- (a) Cancer of the cervix (██████████);
- (b) Rheumatoid arthritis;
- (c) Arthritis pain in the hands;
- (d) Arthritis pain in the hips;
- (e) Arthritis pain in the neck;
- (f) Silent heart attack;
- (g) Syncope (fainting and blackouts)

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

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

ANALYSIS: Claimant has been approved by the Social Security Administration for benefits RSDI and SSI. MA-P and retro MA is approved, August 2007.

(6) Claimant lives with her daughter and granddaughter and performs the following activities of daily living (ADLs): dressing, bathing, cooking, dishwashing, and light cleaning.

(7) Claimant was treated for cancer of the cervix using a combination of chemotherapy and radiation. Claimant received five weeks of chemotherapy and 25 seconds of radiation therapy. Claimant also received eight sessions of specialized radiation therapy at [REDACTED] on [REDACTED].

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

(9) The following medical records are persuasive:

(a) The SHRT summary of medical evidence is presented at Paragraph #5, above.

(b) An [REDACTED] cardiology report was reviewed. The physician provided the following history: Syncope, past growth history. Previous bilateral endarterectomy; left carotid artery/stent insertion; an abnormal MRI of the extracranial arteries. The physician provided the following insertion:

(1) Less than 50% stenosis of the left internal carotid artery.

(2) 50%-69% stenosis of the right internal carotid artery which is unchanged from the patient's outpatient office carotid artery reflex evaluation approximately three months ago;

(3) Bilateral arteries with mianti-regular flow.

(c) A [REDACTED] [REDACTED] physical examination was reviewed.

The physician provided the following instructions: Stage 3 squamous cell carcinoma of the cervix.

The physician made the following recommendations:

The patient and I discussed proceeding with irradiation consisting of external irradiation followed by an HDR brachytherapy boost at [REDACTED]. The process of radiation delivery, side effects and potential complications were reviewed with the patient. I would also recommend that she undergo chemotherapy, due to the advanced stage of the cervical carcinoma.

* * *

(10) The medical evidence in the record does not contain any evidence of a mental impairment. Claimant did not allege disability based on a nonsevere mental impairment.

(11) The objective medical evidence in the record shows claimant has a history of left coronary artery disease, multiple mild cardio infarctions, abnormal MRI findings suggestive of ischemic disease, and Doppler studies demonstrated as 50-69% stenosis of the right carotid artery. In addition, in [REDACTED], claimant was diagnosed with Stage 3 squamous cell carcinoma in the cervix and otherwise went through chemotherapy and radiation therapy.

(12) Claimant recently applied for federal disability benefits. The Social Security Administration approved claimant for SSI benefits. The Social Security Administration approved claimant for SSI benefits effective October 2007, and approved her for RSDI benefits effective September 16, 2007.

(13) On May 29, 2008, SHRT approved claimant for MA-P and retro MA-P.

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 SHRT and SSA have awarded claimant benefits, the Administrative Law Judge does not need to decide the issue of disability. SHRT also approved retro benefits back to August 2007. The Administrative Law Judge concludes, based on the evidence of record and the decisions made by SHRT and SSA, that claimant is entitled to retro MA-P benefits for the months of March and April 2007.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly denied claimant's application for retro MA-P for the months of March and April 2007.

Accordingly, the department's denial of claimant's application for MA-P and for retro MA for March and April 2007 is, hereby, AFFIRMED.

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:

