

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: 2008-21289  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 19, 2008  
Otsego 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 August 19, 2008 in Gaylord. Claimant personally appeared and testified under oath.

Claimant was represented by [REDACTED].

The department was represented by Michelle Hagerman (ES) and Melissa Dowlyn (ES).

The Administrative Law Judge appeared by telephone from Lansing.

On June 12, 2009, Social Security approved claimant for SSI.

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 (March 5, 2008) who was denied by SHRT (July 3, 2008) due to claimant's ability to perform unskilled light work. SHRT relied on Med-Voc Rule 202.20 as a guide. Claimant requests retro MA for December 2007 and January, February 2008.

(2) Claimant's vocational factors are: age--33; education--high school diploma, post-high school education--none; work experience--pizza chef and delivery person for pizza parlor, dish washer.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since 2006 when he was a pizza maker and pizza delivery person.

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

- (a) Diabetes;
- (b) Heart dysfunction;
- (c) Chest pain;
- (d) Status post heart pacemaker placement;
- (e) Chronic fatigue;
- (f) Anxiety attacks.

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

**OBJECTIVE MEDICAL EVIDENCE (July 3, 2008)**

Medical records indicate claimant is a Type I diabetic. A cardiac catheterization of 3/2008 reported ejection fraction to be 70%, with the probability of small vessel diabetic disease. Claimant was found to have some arrhythmias with near syncope for which he had surgery--Implantable Cardioverter Defibrillator (ICD) in order to control his condition. He needed to have adjustments made to his ICD in 4/2008. The report from the cardiologist reported diagnoses of Idiopathic Hypertropic Subaortic Stenosis (IHSS),

Ventricular Tachycardia (VT), obesity, diabetes and atrial flutter (page 6, 25, 110, 114, 116).

ANALYSIS: Claimant's condition would limit his ability to perform strenuous exertion as well as heavy lifting. He should be capable of performing the exertional requirements of light work.

Medical opinion was considered in light of CFR 416.927.

The evidence in the file does not demonstrate any other impairment that would propose a significant limitation.

\* \* \*

(6) Claimant lives with his uncle and performs the following Activities of Daily Living (ADLs): dressing and bathing. Claimant was hospitalized three times in 2007. He was hospitalized five times in 2008. His last hospitalization (July 2008) was for chest pain. Claimant does not use a cane, a walker, a wheelchair or a shower stool. He does not wear a brace on his neck, arms or legs.

(7) Claimant does have a valid driver's license and drives an automobile approximately three times a month. Claimant is computer literate.

(8) The following medical records are persuasive:

(a) An April 29, 2008 Medical Examination Report (DHS-49) was reviewed.

The physician provided the following current diagnoses: Ventricular Tachycardia (VT), Idiopathic Hypertropic Subaortic Stenosis (IHSS), obesity, diabetes, and atrial flutter.

The physician opined that claimant is not able to lift any weight. Further, claimant is able to sit about 6 hours in an 8-hour day. He is able to use his right arm normally. He is able to use his left leg normally.

The physician states that claimant is unable to use his left arm for two months and that claimant is to wear an immobilizer sling on his left arm for pain.

The physician reports no mental limitations. Other than the two months that his left arm is to be immobilized (May through June 2008), the physician does not indicate any long-term functional limitations.

NOTE: Claimant's treating physician has given claimant less than sedentary work restrictions based on claimant's physical impairments. However, this Medical Source Opinion (MSO) is inconsistent with the great weight of the objective medical evidence in the record. 20 CFR 416.927.

- (b) A March 17, 2008 hospital discharge summary was reviewed. The physician notes that an internal cardioverter defibrillator was placed in order to treat claimant's ventricular tachycardia. The physician reports that the procedure went well.

The cardiologist provided the following diagnoses:

- (1) Idiopathic ventricular tachycardia;
- (2) Non-ischemic cardiomyopathy;
- (3) Diabetes mellitus;
- (4) Morbid obesity.

- (c) A March 4, 2008 hospital discharge summary was reviewed. The physician provided the following impression:

- (1) Suspected obstructive sleep apnea;
- (2) Ventricular tachycardia;
- (3) Idiopathic hypertropic subaortic stenosis;
- (4) Obesity;
- (5) Diabetes mellitus.

No work limitations were reported.

- (d) A February 15, 2008 progress note was reviewed.

The physician provided the following subjective assessment:

This is a 32-year-old male who is a regular patient at this clinic, and he comes in for anxiety and panic attack, and he was taken to the ER at one time about a few weeks ago for the panic attack. He has a sore throat and feels tired easily. He has diabetes, Type I, and his blood sugar has been between 180 and 200. He's is coughing and congested.

\* \* \*

The physician provided the following assessment: (1) Panic attack; (2) upper respiratory infection; (3) rash.

(9) On June 12, 2009, Social Security approved claimant for SSI with an onset date of February 29, 2008.

## 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).

Since Social Security has decided that claimant is disabled for SSI purposes, the Administrative Law Judge does not have jurisdiction to rule on the issue of disability.

## DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant meets the MA-P disability requirements under PEM 260. Based on the November 16, 2009 Social Security approval, claimant is totally unable to perform any

substantial gainful activity at this time. Therefore, claimant meets the disability requirements for the MA-P benefits requested at the DHS hearing.

SO ORDERED.

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

Date Signed: January 21, 2010

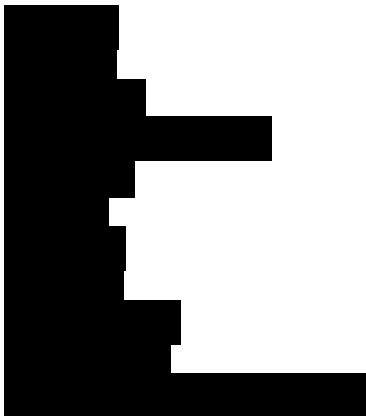
Date Mailed: January 22, 2010

**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.

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 mailing date of the rehearing decision.

JWS/cv

cc:

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