

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: 2008-5835
Issue No: 2009/4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 26, 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 (District #49) on February 26, 2008. Claimant personally appeared and testified under oath.

Claimant was represented by [REDACTED], a paralegal at [REDACTED].

The department was represented by Marilyn McCarthy (ES). The Administrative Law Judge appeared by telephone from Lansing.

Claimant requested additional time to submit new medical evidence. Claimant's medical evidence was not sent to the State Hearing Review Team (SHRT) because SSA approved claimant for SSI. Claimant waived the timeliness requirements so that his new medical evidence could be reviewed by SHRT.

ISSUE

Did the department establish medical improvement that enabled claimant to perform substantial gainful activity for MA-P/SDA purposes?

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 current MA-P/SDA recipient. The department proposes to close claimant's MA-P/SDA based on medical improvement. SHRT issued a decision on January 25, 2008 stating that the medical record established medical improvement and that claimant was no longer eligible for MA-P/SDA. The original approval date for claimant's MA-P/SDA was October 17, 2006. The basis for claimant's disability approval was muscular dystrophy (MS).

(2) Claimant's vocational factors are: Age 32; education -- high-school diploma; post high-school education -- on-the-job training as a mechanic, but not licensed by the State of Michigan; work experience -- mechanic for [REDACTED].

(3) Claimant has not performed substantial gainful activity (SGA) since 2002 when he was employed as a car and truck mechanic by [REDACTED].

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

OBJECTIVE MEDICAL EVIDENCE (January 25, 2008)

On 2/8/2007 it was noted that claimant was a relapsed remitting MS patient. He had a relapse of his gait problems in 9/2006. He uses a cane for walking mostly to sustain his self-confidence. An MRI in 9/2006 had somewhat more lesions than the previous MRI in 9/2004. On exam, his speech was clear, fluent and appropriate. Finger to nose showed minimal terminal tremor bilaterally. He was able to walk 25 feet in 4.43 seconds without ambulatory aid, with an almost normal gait (p. 10).

A DHS-49 form completed on 2/8/2007 exam showed claimant used a cane for stability. His gait was slightly abnormal and he had a mild bilateral tremor (p. 8). The doctor indicated claimant could stand/walk at least two hours in an eight-hour day and could frequently lift less than 10 pounds (p. 9).

ANALYSIS: Claimant has relapsing remitting MS. He uses a cane, but was able to walk 25 feet without the cane. There was no evidence of atrophy or muscle weakness. Claimant would be limited to sedentary work.

* * *

(5) On October 1, 2008, the Social Security Administration approved claimant for SSI. The disability onset date is July 1, 2008.

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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) 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).

Medical findings must allow a determination of (1) the nature and limiting effects of your impairment(s) for any period in question; (2) the probable duration of the impairment; and

(3) the residual functional capacity to do work-related physical and mental activities. 20 CFR 416.913(d).

Medical evidence may contain medical opinions. Medical opinions are statements from physicians and psychologists or other acceptable medical sources that reflect judgments about the nature and severity of the impairment(s), including your symptoms, diagnosis and prognosis, what an individual can do despite impairment(s), and the physical or mental restrictions. 20 CFR 416.927(a)(2).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).
3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

Since the Social Security Administration has approved claimant for SSI, the Administrative Law Judge does not have to decide the disability issue presented in claimant's application.

Approval by SSA is a presumptive ruling resulting in an automatic approval of claimant's application for MA-P/SDA.

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/SDA purposes effective September 2007 application.

Accordingly, the department's denial of claimant's MA-P/SDA application is, hereby, REVERSED. The department shall delete the proposed closure, forthwith.

SO ORDERED.

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

Date Signed: August 24, 2009

Date Mailed: August 25, 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.

2008-5835/jws

JWS/jj

cc:

