

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: 2009-14771
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 17, 2009
Hillsdale 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 on June 17, 2009, in Hillsdale. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Linda Cunningham (FIM).

Claimant requested additional time to submit new medical evidence. By agreement of the parties, the record closed on July 17, 2010.

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P)?
- (2) Did claimant establish a severe physical impairment expected to preclude him 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/Retro applicant (September 30, 2008) who was denied by SHRT (March 20, 2009) based on claimant's ability to perform light work under 20 CFR 416.967(b). Claimant requests retro-MA for June 2008.

(2) Claimant's vocational factors are: age—61; education—high school diploma, post-high school education--none; work experience—cook for [REDACTED], press operator at a print shop, heavy laborer for carnivals.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since October 2002 when he worked as a cook at [REDACTED].

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

- (a) Hearing problems;
- (b) Right knee dysfunction;
- (c) Arthritis in bilateral feet;
- (d) Pain in knees, hips and back;
- (e) Spinal dysfunction;
- (f) Chest pain;
- (g) Scar from prior heart surgery;
- (h) Arthritis pain.

(5) On July 21, 2010, SSA approved claimant for SSI, with a disability onset date of December 11, 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).

On July 21, 2010, SSA approved claimant for SSI benefits with a disability onset date of December 11, 2007. Therefore the undersigned Administrative Law Judge 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 that claimant meets the MA-P disability requirements under PEM/BEM 260/261. Claimant is disabled for MA-P purposes based on SSI's recent SSI approval.

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

The department shall open claimant's MA-P case, assuming all non-medical requirements are met, effective June 2008.

SO ORDERED.

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

Date Signed: August 23, 2010

Date Mailed: August 23, 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/sd

cc:

