

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2009-18414
Issue No: 2009; 4031
Case No: [REDACTED]
Load No:
Hearing Date:
June 3, 2009
Genesee 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 3, 2009, in Flint. The claimant personally appeared and testified under oath.

The department was represented by Julie Cowturier (ES).

The Administrative Law Judge appeared by telephone from Lansing.

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 (October 10, 2008) who was denied by SHRT (April 27, 2009) based on claimant's ability to perform

past work. Claimant requested retro MA-P for July, August and September 2008.

- (2) Claimant's vocational factors are: age--59; education—11th grade; post high school education--none; work experience—semi driver (long and short haul).
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a long/short haul semi driver in 2005.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Lung dysfunction;
 - (b) Hypertension;
 - (c) Hepatitis C;
 - (d) Unable to sit for long periods;
 - (e) Unable to stand for long periods;
 - (f) Breathing dysfunction; and
 - (g) Legs swell up.
- (5) On or about November 7, 2007, the Social Security Administration (SSA) approved claimant for SSI/RSDI benefits with a disability onset date of December 31, 2005.

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).

SSA approved claimant for SSI/RSDI benefits with an onset date of December 31, 2005. Therefore, the Administrative Law Judge does not have jurisdiction to rule on an 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/SDA disability requirements under BEM 260/261. Claimant is disabled for MA-P/SDA purposes based on the recent SSI/RSDI approval by SSA.

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

The department shall open claimant's MA-P case effective July 2008 and claimant's SDA case effective October 2008.

SO ORDERED.

/s/

Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 10, 2011

Date Mailed: June 10, 2011

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:

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