

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: 2009-19321

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

November 18, 2009

Alpena County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

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 November 18, 2009. Claimant personally appeared and testified. She was assisted by [REDACTED].

ISSUE

Did the department properly determine claimant is not disabled by Medicaid (MA) eligibility standards?

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 43-year-old, certified Emergency Medical Technician (EMT) who has been married to her fourth husband for approximately two years; she stands approximately

5'8" tall and is medically obese at approximately 223 pounds (MBI=35.3)(Client Exhibit B, pg 1).

(2) Claimant was last employed as a county corrections officer but she left that job in early 2005 after being run over by a tractor in October 2004.

(3) Subsequently, claimant started a repo business but it closed in December 2006 because she could no longer perform the physical or mental activities required as an owner/operator.

(4) On October 6, 2009, claimant received a Social Security Administration (SSA) disability approval; this Notice of Decision conclusively establishes claimant's disability onset date as December 23, 2008 (Client Exhibit A, pgs 1-3).

(5) The SSA's disability allowance was based on a combination of mental and physical impairments all diagnosed in 2007, including: (1) unstable diabetes with secondary lower extremity peripheral neuropathy; (2) fibromyalgia; (3) Bipolar Disorder and (4) Post Traumatic Stress Disorder (PTSD)(Client Exhibit B, pgs 1-15).

(6) All of claimant's diagnosed conditions existed in the same degree of severity between September and November 2008.

(7) After claimant's November 24, 2008 disability application was denied her authorized representative requested a hearing held on November 18, 2009.

(8) Claimant's authorized representative stipulated at hearing the only months still in dispute are September through November 2008, because the SSA's approval resulted in the local office starting claimant's MA benefits in December 2008 but not earlier, according to the department's witness at hearing.

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).

In Michigan, the SSA's determination of disability onset is binding for MA eligibility purposes. In the present case, evidence of the favorable SSA decision conclusively establishes claimant meets the federal disability standard necessary to qualify for MA/retro-MA pursuant to BEM Items 150 and 260.

Additionally, claimant's authorized representative has shown she was determined disabled as of December 2008. The above-referenced departmental policy provides three months of retroactive MA eligibility from an established onset date also is available. In this case, SSA onset was established as of December 2008. Consequently, claimant is entitled to MA approval three months prior to that month.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department erred in determining claimant was not MA eligible in September, October or November, 2008.

Accordingly, the department's decision is REVERSED and it is Ordered that:

- (1) The department shall approve MA/retro-MA benefits for claimant if she is otherwise eligible to receive them.

(2) Departmental review of claimant's medical conditions are not necessary as long as her SSA disability status continues.

/s/

Marlene B. Magyar
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 15, 2009

Date Mailed: December 16, 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.

MBM/db

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