

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: 2009-25376
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 12, 2009
Kalamazoo 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 Kalamazoo on August 12, 2009. Claimant personally appeared and testified under oath.

The department was represented by Angela Lightbren (ES) and Michelle Schnake (ES).

The Administrative Law Judge appeared by telephone from Lansing

ISSUE

Did the department establish medical improvement that enables claimant to perform substantial gainful work 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 reason she was previously approved for benefits is unknown. Claimant was scheduled for an eligibility review in March 2009.

(2) On April 23, 2009, MRT denied claimant's application for MA-P/SDA.

(3) On June 26, 2009, SHRT issued a decision denying ongoing MA-P/SDA benefits because claimant is able to perform unskilled medium work. SHRT relied on 203.28 as a guide.

(4) Claimant's unable-to-work complaints are:

- (a) Status post back injury;
- (b) Schizophrenia;
- (c) Bipolar Disorder;
- (d) Borderline Personality;
- (e) Agoraphobic.

(4) Claimant's vocational factors are: age—44; education—high school diploma; post high school diploma—[REDACTED] (one semester); work experience—repaired robots for [REDACTED]. and worked in factories.

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

OBJECTIVE MEDICAL EVIDENCE (JUNE 26, 2009)

The mental examination stated claimant is in early remission for drug abuse. Thought processes were logical, somewhat simple and goal directed. On 1/2009, claimant reported her medication is working well (Page 45). Her intermediate and remote memories are fair (Page 46).

ANALYSIS:

The objective medical evidence presented does not establish a disability at the Listing or equivalence level. The collective medical evidence shows that claimant is capable of performing a wide range of unskilled work.

* * *

- (6) The following medical records were reviewed.
- (a) A March 23, 2009 Medical Needs Form (DHS-54A) was reviewed. The physician states that claimant has bipolar disorder, schizophrenia, back pain, morbid obesity, diabetes mellitus-II, chronic back pain.
- The physician states that claimant will require medical treatment for her diabetes, bipolar disorder, schizophrenia, and chronic back pain.
- The physician states that claimant has a medical need for assistance with personal care activities, including transferring, mobility, meal preparation, shopping, laundry and housework.
- The physician states that claimant is unable to work at her usual occupation (lifetime) and unable to work at any job (lifetime).
- (b) The recent medical evidence in the record, specifically the Medical Needs Form (DHS-54A), does not show any improvement in claimant's physical or mental impairments.

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).

Pursuant to Federal Rule 42 CFR 435.540, the Department of Human Services uses the federal Supplemental Security Income (SSI) policy in determining eligibility for disability under the Medical Assistance program. Under SSI, disability is defined as:

...the inability to do any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months.... 20 CFR 416.905

THE ABILITY TO DO SUBSTANTIAL GAINFUL ACTIVITY

Under current MA-P/SDA policy, **the department has the burden of proof** to establish that claimant's mental and physical impairments have improved to the point that claimant is now medically/vocationally able to work. PEM 260/261. The department relied on a report which states that claimant's medication is working well.

However, the medical record contains a March 23, 2009 Medical Needs Form (DHS-54A) which shows that claimant has a lifelong need for the medical treatment of her diabetes, bipolar disorder, schizophrenia and chronic back pain. Furthermore, the physician states that claimant has a medical need for assistance with transferring, mobility, meal preparation, shopping, laundry and housework. Finally, the physician states that claimant is unable to return to her previous work and is unable to work at any job.

Given the information provided in the Medical Needs Form (March 23, 2009), the

Administrative Law Judge concludes that department has not met its burden of proof to show that claimant is now able to perform substantial gainful activity.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has not established the requisite medical improvement to support a denial of claimant's MA-P and SDA benefits under PEM 260/261.

According, the department's decision to close claimant's MA-P/SDA is, hereby,
REVERSED.

SO ORDERED.

/S/

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

Date Signed: April 16, 2010

Date Mailed: April 19, 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 receipt date of the rehearing decision.

JWS/sd

Cc:

