

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: 2009-21893

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 9, 2009

Gladwin 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 July 9, 2009. Claimant personally appeared and testified. He was assisted by [REDACTED]

ISSUE

Did the department properly determine claimant's disability status for Medicaid (MA)/retro-MA eligibility 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) On November 26, 2008, claimant applied for MA/retro-MA.
- (2) On May 26, 2009, the department's State Hearing Review Team (SHRT) issued a prehearing denial on claimant's application (Department Exhibit #2).

(3) Claimant's authorized representative promptly requested a hearing, at which, claimant's authorized representative presented updated medical evidence (Client Exhibits A and B).

(4) On July 13, 2009, these medical records were forward to SHRT for a post-hearing review.

(5) On July 16, 2009, SHRT reversed its earlier denial of claimant's disputed MA/retro-MA application with a finding that claimant meets Listing 11.04 (Central Nervous System Vascular Accident), but restricted eligibility/coverage to September, 2008, not earlier (See SHRT decision dated July 16, 2009).

(6) Claimant is a 63-year-old high school graduate with a heavy exertional work history (construction, welding, plumbing, maintenance).

(7) Claimant was hospitalized in August 2008 (at age 62) with a left front parietal stroke caused by a 60% stenosis of his left internal carotid artery and a 50% stenosis of his right internal carotid artery (Department Exhibit #1, pg 73).

(8) Prior to this hospitalization claimant experienced chronic right arm and leg numbness for approximately one month (Department Exhibit #1, pg 73).

(9) Claimant's other severe symptoms included dull headaches, illegible writing, slow movements and repeated falls due to instability (Department Exhibit #1, pg 73).

(10) PAM Item 115, pg 8 allows applicants to be eligible for retro-MA back to the first day of the third calendar month prior to the application filing month if disability is established.

(11) Claimant's medical records establish he was disabled retroactive to August, 2008, not September, 2008, as erroneous concluded by SHRT (Department Exhibit #1, pgs 1-172)(See also Finding of Fact #5 above).

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 the present case, SHRT reversed its earlier finding of lack of disability based on additional medical evidence reviewed for the first time after the hearing, but it erroneously restricted retro-MA coverage to September, 2008.

As such, SHRT's decision is AFFIRMED with partial reversal of the coverage effective date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department was partially correct and partially incorrect in determining claimant's MA/retro-MA disability status.

Accordingly, the department's decision is affirmed, but retro-MA coverage shall begin effective August, 2008 forward. **SO ORDERED.**

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

Date Signed: July 21, 2009
Date Mailed: July 21, 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

cc:

