

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: 2009-21961  
Issue No: 2009; 4031  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 29, 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, an in-person hearing was held in Flint on July 29, 2008. Claimant personally appeared and testified under oath.

Claimant was represented by [REDACTED].

The department was represented by Alice Taylor (ES) and Shannon DuBose (ES).

Claimant requested additional time to submit new medical evidence. Claimant's medical evidence was sent to the State Hearing Review Team (SHRT) on August 17, 2009. Claimant waived the timeliness requirement so her new medical evidence could be reviewed by SHRT. On August 19, 2009, SHRT approved claimant for disability benefits.

ISSUES

(1) Did claimant establish a severe mental impairment expected to preclude her 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 her 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 (May 30, 2008) who was denied by SHRT (May 30, 2009) due to claimant's ability to perform unskilled sedentary work under 20 CFR 416.967(a) and Med-Voc Rule 201.28 as a guide. Claimant requests retro-MA for February, March and April 2008.

(2) Claimant's vocational factors are: age—50; education—high school diploma; post-high school education—2 semesters at [REDACTED] (Child Development); work experience—administrative assistant/secretary for [REDACTED], cashier/stocker for [REDACTED] gas station, intake assistant for [REDACTED].

(3) Claimant has not performed Substantial Gainful Activity (SGA) since 1996 when she worked as an administrative assistant/secretary for [REDACTED].

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

- (a) Unable to stand for long periods;
- (b) Rheumatoid arthritis in ankles, knees, feet, legs and wrists;
- (c) Fibromyalgia;
- (d) Diabetes;
- (e) Ulcer;
- (f) Depression.

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

**OBJECTIVE MEDICAL EVIDENCE (MAY 30, 2009)**

SHRT decided that claimant was able to perform unskilled sedentary work activities. SHRT evaluated claimant's impairments using SSI Listings 1.00, 5.00, 12.00 and 9.00. SHRT

decided that claimant does not meet any of applicable SSI Listings. SHRT denied disability based on claimant's ability to work under 20 CFR 416.967(a).

SHRT provided the following comments in support of its decision:

Claimant has a severe physical/mental impairment; however, this impairment does not meet or equal a Social Security Listing. Due to claimant mental and physical mental residual functional capacity, she cannot perform her past work as it is normally performed in the national economy.

However, based on claimant's vocational profile (201.28) she can perform a wide range of work using Vocational Rule 201.28 as a guide. Therefore, MA-P/Retro benefits are denied. SDA is denied per PEM 261 because the nature and severity of claimant's impairments do not preclude all sedentary work activity for 90 days.

\* \* \*

## 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).

On August 19, 2009, SHRT approved claimant for MA-P/SDA benefits.

Therefore, it is not necessary for the ALJ 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 does meet the MA-P/SDA disability requirements under PEM 260/261.

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

SO ORDERED.

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

Date Signed: March 29, 2010

Date Mailed: March 29, 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.

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cc:

