

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: 2009-22677
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 13, 2009
Otsego 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 Gaylord on October 13, 2009. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Dale Terryberry (Program Manager) and Cindy Hoover (ES).

Claimant requested additional time to submit new medical evidence. Claimant waived the timeliness requirement so that his new medical evidence could be reviewed by SHRT. On December 22, 2009, SSA approved claimant for SSI with an onset date of December 17, 2004.

ISSUES

(1) Did claimant establish a severe mental impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P)?

(2) Did claimant establish a severe physical impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P)?

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 applicant (November 20, 2008) who was denied by SHRT (May 29, 2009) based on insufficient medical evidence.

(2) Claimant's vocational factors are: age—51; education—9th grade; post-high school education—GED in [REDACTED]; work experience—grocery store stocker, construction worker, rough carpenter, and roofing laborer.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a grocery store stocker in 1998.

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

- (a) 15 broken bones--back;
- (b) Back dysfunction;
- (c) Curved spine;
- (d) Recent weight loss;
- (e) Hepatitis A & C;
- (f) Depression;
- (g) Anger management issues;
- (h) S/P drinking problem;
- (i) Memory dysfunction.

(5) On December 22, 2009, SSA approved for SSI with disability onset date of December 17, 2004.

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).

On December 22, 2009, SSA approved SSI with disability onset date of December 17, 2004. Therefore, this ALJ does not have jurisdiction 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 the claimant meets the MA-P disability requirements under PEM 260. Claimant is disabled for MA-P purposes based on the recent SSI approved by SSA.

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

The department shall open claimant's MA-P case, effective August 2008.

SO ORDERED.

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

Date Signed: January 27, 2010

Date Mailed: January 27, 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 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/sd/tg

cc:

