

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: 2009-30879
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 23, 2009
Gladwin 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 on September 23, 2009, in Gladwin. Claimant personally appeared and testified under oath.

The department was represented by Teri Ehle (ES).

Claimant requested additional time to submit new medical evidence. The new medical evidence was submitted to the State Hearing Review Team (SHRT) on October 23, 2009.

Claimant waived the timeliness requirement so his new medical evidence could be reviewed by SHRT.

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/retro applicant (January 6, 2009) who was denied by SHRT (August 5, 2009) based on claimant's failure to establish an impairment which meets the severity and duration requirements. Claimant requests retro MA-P for December 2008.

(2) Claimant's vocational factors are: age--47; education--high school diploma; post high school education--none; work experience--iron worker (construction); paper route.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since 1992 when he was an iron worker installing structural steel.

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

- (a) Status post fracture of right ankle;
- (b) Status post ankle fusion;
- (c) Inability to concentrate for long periods;
- (d) Low back pain;
- (e) Arthritis pain;
- (f) Right hip pain;
- (g) Sleep apnea; and
- (h) Anxiety disorder.

(5) On August 25, 2009, SSA approved for SSI with disability onset date of July 28, 2009.

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 August 25, 2009, SSA approved SSI with disability onset date of July 28, 2009. 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 that claimant meets the MA-P disability requirements under PEM 260. Claimant is disabled for MA-P purposes based on the recent SSI approval 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 December 2008.

SO ORDERED.

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

Date Signed: May 4, 2010

Date Mailed: May 4, 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/tg

cc:

