

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-10779

Issue No: 2009

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

April 28, 2010

Iosco 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 April 28, 2010, in East Tawas. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Linda Kennedy (ES).

By agreement of the parties, the record closed on April 28, 2010.

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 (October 19, 2009) who was denied by SHRT (December 21, 2009) based on claimant's ability to perform unskilled light work.

- (2) Claimant's vocational factors are: age--48; education--11th grade; post high school education--tank mechanic with the [REDACTED]; work experience--rough and finish carpenter.
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a carpenter (rough and finish) in 2006.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Heart dysfunction;
 - (b) Arthritis;
 - (c) COPD;
 - (d) Poor eyesight; and
 - (e) Poor hearing.
- (5) On October 20, 2010, SSA approved claimant for RSDI/SSI benefits with a disability onset date of December 6, 2007.

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 October 20, 2010, SSA approved claimant for RSDI/SSI benefits with a disability onset date of December 6, 2007. Therefore, the undersigned Administrative Law Judge 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/BEM 260. Claimant is disabled based on SSA's recent RSDI/SSI approval.

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

The department shall open claimant's MA-P case, assuming all non-medical requirements are met, effective July 2009.

SO ORDERED.

/s/_____

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

Date Signed: November 30, 2010

Date Mailed: November 30, 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:

