

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: 2010-35244
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2010
Calhoun 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 June 30, 2010 in Battle Creek. Claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Tammy Smith (ES).

During the pre-hearing conference, claimant requested approval of her March 3, 2010 application based on the March 2010 approval of SSI by the Social Security Administration.

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude her from substantial gainful work, **continuously**, for one year (MA-P)?
- (2) Did claimant establish a severe physical impairment expected to preclude her 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 (March 3, 2010) who was denied by SHRT (May 26, 2010) based on claimant's failure to establish an impairment which meets the severity and duration requirements. Claimant requests retro MA-P for January and February 2010.

(2) Claimant's vocational factors are: age--49; education--high school diploma; post high school education--[REDACTED]; work experience--laundry attendant.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since 2009 when she was a laundry attendant.

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

- (a) SOB;
- (b) Pain;
- (c) Lung dysfunction;
- (d) Dialysis patient;
- (e) Kidney dysfunction;
- (f) S/P right lung surgery;
- (g) Mental health treatments.

(5) In March 2010, SSA approved for SSI with disability onset date of March 1, 2010.

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).

In March 2010, SSA approved RSDI with disability onset date of March 1, 2010. 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 January 2010.

SO ORDERED.

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

Date Signed: August 23, 2010

Date Mailed: August 23, 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.

2010-35244/JWS

JWS/tg

cc:

