STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: ███████,

       Claimant

Reg. No: 2010-35803
Issue No: 2009; 4031
Case No: ████████
Load No: ████████
Hearing Date:
July 8, 2010
Saginaw 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 July 8, 2010, in Saginaw. Claimant personally appeared and testified under oath. Claimant was represented by ████████████████████████████ ██████████.

The department was represented by Cheryl Latinen (ES).

Claimant requested additional time to submit new medical evidence. Claimant waived the timeliness requirement so her new evidence could be reviewed by SHRT. In July 2010, SSA approved claimant for SSI with an onset date of December 1, 2009.

ISSUE

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 MA/SDA applicant (February 23, 2010) who was denied by SHRT (May 27, 2010) based on insufficient medical evidence.

(2)   Claimant's vocational factors are: age--41; education--high school diploma; post high school education--none; work experience--kitchen manager, █████ stocker and bartender.

(3)   Claimant has not performed Substantial Gainful Activity (SGA) since she worked as a kitchen manager for a yacht club in 2009.

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

　　　(a)   Difficulty walking;
　　　(b)   Uses a cane;
　　　(c)   Balance dysfunction;
　　　(d)   Falls frequently;
　　　(e)   Muscle spasms;
　　　(f)   Migraine headaches;
　　　(g)   Chronic nausea; and
　　　(i)   Grip dysfunction.

(5)   In July, 2010, SSA approved claimant for SSI with a disability onset date of December 1, 2009.

CONCLUSIONS OF LAW

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 July 2010, SSA approved claimant for SSI with disability onset date of December 1, 2009. Therefore, the undersigned 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/SDA requirements under PEM 260/261. Claimant is disabled for MA-P/SDA purposes based on the recent SSI approval.

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

The department shall open claimant's MA-P/SDA cases effective January 1, 2010.

SO ORDERED.

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

Date Signed:_ August 10, 2010_____

Date Mailed:_ August 10, 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.

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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: