

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: 2010-41436  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 12, 2010  
Ingham 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 August 12, 2010, in Lansing. The claimant did not appear at the specified time and did not provide any sworn testimony. Claimant was represented at the hearing by [REDACTED] from [REDACTED] stipulated with the department that a decision would be rendered based solely on the medical record

The department was represented by Jeanne Lugo (Lead Worker).

By agreement of the parties, the record closed on August 12, 2010; no sworn testimony was presented for the record.

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 (November 20, 2008) who was denied by SHRT (July 13, 2010) due to lack of the required 12-month duration. Claimant requested retro MA for August 2008.

(2) Claimant's vocational factors are: age--29; education--less than high school; post high school education--unknown; work experience--unknown.

(3) Claimant's current Substantial Gainful Activity (SGA) status is unknown.

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

- (a) Altered state of mind;
- (b) History of schizophrenia;
- (c) Depression;
- (d) Anxiety; and
- (e) Substance abuse issues.

(5) SHRT evaluated claimant's medical evidence as follows:

**OBJECTIVE MEDICAL EVIDENCE (July 13, 2010)**

The claimant is alleging disability secondary to schizophrenia, learning disability and heart disorder. He is 29 years old and has less than high school equivalent education, with a history of light unskilled work.

SHRT used the following Listings to evaluate claimant's eligibility: 4.01; 11.02; 11.03.

SHRT denied claimant's MA-P application because claimant did not satisfy the 12th month duration requirement for MA-P eligibility.

(6) Claimant's Activities of Daily Living (ADLs) are unknown. Claimant's recent hospitalizations are unknown.

(7) It is not known if claimant has a valid driver's license. It is not known whether claimant is computer literate.

(8) The following medical records are persuasive:

- (a) An [REDACTED] discharge summary was reviewed.

The physician provided the following discharge diagnosis:  
Seizure secondary to alcohol withdrawal.

The physician provided the following history and physical examination report:

Please refer to the detailed history and physical examination dictated by [REDACTED]. In brief, claimant is a 27-year-old male with a past medical history of alcohol and tobacco abuse, who is a homeless guy. Was in normal state of health until he was found yesterday in the morning by the police department. Apparently, the patient had fallen off his bike and when he was approached he was acting confused as if he was in a postictal state. For this reason, he was brought to the emergency room for evaluation by the police department. Patient denies any memory of events leading up to the fall off of his bike and he denied any chest pain, chest pressure, palpitations, no nausea, no vomiting, no shortness of breath, no difficulty in breathing. No history of any tongue biting, no bowel or bladder incontinence. Again, in the ER he had another witnessed episode of seizure of approximately 2 minutes. The ER nurse noted it was a generalized tonic-clonic seizure for which she gave 2 mgs of Ativan and after that the seizure subsided and from the ER the patient was admitted to the floor and he was kept on alcohol withdrawal protocol.

COURSE IN THE HOSPITAL:

The claimant was kept on the alcohol withdrawal protocol as he was a chronic abuser, who drinks like 10 beers of each of 24 ounces and he is also a chronic tobacco abuser and is a drug abuser. Claimant was doing fine on the floor and there were no more seizures for more than 12 hours and he was kept on alcohol withdrawal protocol and he was pretty stable at the time of discharge. Social worker was consulted as she did provide the names and contact numbers of the alcohol rehabilitation and substance abuse rehabilitation program and the claimant is noted to contact the rehabilitation center of these two and so we are discharging him home giving a prescription for Ativan 1 mg every 6 hours p.r.n. and multivitamin tablets and follow up with his primary care physician in 2-3 weeks as per the patient's preference and follow up with the rehabilitation program for which the names and contact numbers are provided by the social worker.

\* \* \*

The ER physician provided the following addendum:

Claimant has a history of schizophrenia with depression and anxiety, but right now patient is stable, but he is homeless.

The [REDACTED] physician did not state that claimant is totally unable to work.

\* \* \*

(b) An [REDACTED] history and physical exam was reviewed.

The physician provided the following assessment and plan:

1. Delirium tremens;
2. History of schizophrenia;
3. History of substance abuse;
4. Patient is currently incarcerated;
5. Deep venous thrombosis prophylaxis;
6. Gastrointestinal prophylaxis.

The [REDACTED] physician did not report that claimant is totally unable to work.

(9) The probative medical evidence does not establish an acute mental condition expected to prevent claimant from performing all customary work functions for the required period of time. There is no clinical evidence of record to establish the severe mental impairment at this time.

(10) The probative medical evidence, standing alone, does not establish an acute physical (exertional) impairment expected to prevent claimant from performing all customary work functions. The medical records do show that claimant was treated in the [REDACTED] [REDACTED] for a generalized tonic-clonic seizure. Claimant was treated and released. Neither the [REDACTED] physician nor the [REDACTED] [REDACTED] reporting physician listed any work limitations that would prevent claimant from returning to work.

(11) Claimant's status with the Social Security Administration (SSA) is unknown.

CONCLUSIONS OF LAW

**CLAIMANT'S POSITION**

Claimant's physical condition is summarized in the [REDACTED] hearing request as follows:

Claimant is a 28-year-old male who has the following major health issues: Altered state of mind, history of schizophrenia, depression, anxiety, substance abuse issues. He is currently homeless per our records and he is having seizures which are clonic in nature per the ER records.

\* \* \*

**DEPARTMENT'S POSITION**

The department thinks that claimant does not meet the 12-month durational requirement for MA-P.

## **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).

All of the evidence relevant to the claim, including medical opinions, is reviewed and findings are made. 20 CFR 416.927(c).

The Administrative Law Judge is responsible for making the determination or decision about whether the statutory definition of disability is met. The Administrative Law Judge reviews all medical findings and other evidence that support a medical source's statement of disability.... 20 CFR 416.927(e).

A statement by a medical source finding that an individual is "disabled" or "unable to work" does not mean that disability exists for the purposes of the program. 20 CFR 416.927(e).

When determining disability, the federal regulations require that several considerations be analyzed in sequential order. If disability can be ruled out at any step, analysis of the next step is not required. These steps are:

1. Does the client perform Substantial Gainful Activity (SGA)? If yes, the client is ineligible for MA. If no, the analysis continues to Step 2. 20 CFR 416.920(b).
2. Does the client have a severe impairment that has lasted or is expected to last 12 months or more or result in death? If no, the client is ineligible for MA. If yes, the analysis continues to Step 3. 20 CFR 416.920(c).

3. Does the impairment appear on a special listing of impairments or are the client's symptoms, signs, and laboratory findings at least equivalent in severity to the set of medical findings specified for the listed impairment? If no, the analysis continues to Step 4. If yes, MA is approved. 20 CFR 416.290(d).
4. Can the client do the former work that he/she performed within the last 15 years? If yes, the client is ineligible for MA. If no, the analysis continues to Step 5. 20 CFR 416.920(e).
5. Does the client have the Residual Functional Capacity (RFC) to perform other work according to the guidelines set forth at 20 CFR 404, Subpart P, Appendix 2, Sections 200.00-204.00? If yes, the analysis ends and the client is ineligible for MA. If no, MA is approved. 20 CFR 416.920(f).

**Claimant has the burden of proof** to show by a preponderance of the medical evidence in the record that his mental/physical impairments meet the department's definition of disability for MA-P purposes. PEM/BEM 260. "Disability," as defined by MA-P standards is a legal term which is individually determined by consideration of all factors in each particular case.

### **STEP #1**

The issue at Step 1 is whether claimant is performing Substantial Gainful Activity (SGA). If claimant is working and earning substantial income, he is not eligible for MA-P.

SGA is defined as the performance of significant duties over a reasonable period of time for pay. PEM/BEM 260, pages 8 and 9.

Claimants, who are working and performing Substantial Gainful Activity (SGA), are not disabled regardless of medical condition, age, education or work experience. 20 CFR 416.920(b).

There is no testimony regarding claimant's work status on the record. There is no testimony regarding claimant work history on the record.

**STEP #2**

The issue at Step 2 is whether claimant has impairments which meet the SSI definition of severity/duration. Unless an impairment is expected to result in death, it must have existed, or be expected to exist, for a continuous period of at least 12 months from the date of application.

20 CFR 416.909.

Also, to qualify for MA-P, the claimant must satisfy both the gainful work and duration criteria. 20 CFR 416.920(b).

If claimant does not have an impairment or combination of impairments which profoundly limit his physical or mental ability to do basic work activities, he does not meet the Step 2 criteria. 20 CFR 416.920(c). SHRT found that claimant does not meet the severity and duration requirements because he has not demonstrated a severe impairment which has existed for 12 months. Since the medical/vocational evidence of record supports SHRT's determination that claimant has not demonstrated an impairment with the required severity and duration (12 continuous months), claimant does not meet the requirements for MA-P at this time.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant does not meet the MA-P disability requirements under PEM/BEM 260. Claimant is not disabled for MA-P purposes based on Step 2 of the sequential analysis, as described above.

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



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 24, 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:

