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

IN THE MATTER OF:

██████████
████████████
██████████████

Reg. No: 2010-42997
Issue No: 2009
Case No: ████████
Load No:
Hearing Date:
February 10, 2011
Berrien 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 February 10, 2011, in Benton Harbor. The claimant personally appeared and testified under oath. The claimant was represented by ████████ from ████████████.

The department was represented by Joanna Adams (FIM) and Lillie Roseburgh (FIS).

By the agreement of the parties, the record closed February 11, 2011.

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 (February 24, 2010) who was denied by SHRT (July 22, 2010) due to claimant's ability to work. Claimant

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requested retro MA for November and December 2009, and January 2010.

(2)   Claimant's vocational factors are: age--35; education--high school diploma; post high school education--attended Junior College, ███ ████████████████████; work experience--maintenance worker for a boiler company.

(3)   Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a welder for a boiler company.

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

(a)   Colon dysfunction;
(b)   Depression;
(c)   Diabetes;
(d)   Back pain;
(e)   Status post left knee; and
(f)   Arthritis.

(5)   On November 26, 2010, the Social Security Administration approved claimant for RSDI (disability) with an onset date of February 22, 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).

Recently SSA approved claimant for RSDI/disability benefits with a disability onset date of February 22, 2009. Therefore, the 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/BEM 260. Claimant is disabled for MA-P purposes based on the recent RSDI/disability 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 November 2009.

SO ORDERED.

/s/ _____

Jay W. Sexton
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: __June 2, 2011__

Date Mailed: __June 2, 2011__

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: