

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: 2010-50770
Issue No: 2009
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 23, 2010
Newaygo 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, a telephone hearing was held on September 23, 2010, in White Cloud. Claimant personally appeared and testified under oath.

The department was represented by Kimberly Polasek (Lead ES) and Martha Sherman (ES).

By agreement of the parties, the record closed on September 23, 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 applicant (May 24, 2010) who was denied by SHRT (August 30, 2010) based on claimant's ability to perform sedentary work.
- (2) Claimant's vocational factors are: age--47; education--11th; post high school education--none; work experience--sewer cleaning technician and heavy equipment operator; supervisor for sewer cleaning company.
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a supervisor for a sewer cleaning company in 2009.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Status post bladder tumor removal (2010);
 - (b) Status post coronary artery bypass (2010);
 - (c) Status post cervical spine fusion (2010);
 - (d) Neuropathy; and
 - (e) Diabetes with insulin treatment.
- (5) On October 12, 2010, SHRT approved claimant for MA-P benefits and retro MA beginning February 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).

On October 12, 2010, SHRT approved claimant for MA-P and retro MA beginning February 2010.

Therefore, the undersigned Administrative Law Judge does not need 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 SHRT's recent MA-P approval.

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

The department shall open claimant's MA-P case (effective February 2010, assuming all non-medical requirements are met.

SO ORDERED.

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

Date Signed: October 22, 2010

Date Mailed: October 25, 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 mailing 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:

