

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-15945
Issue No: 2009; 4031
Case No: [REDACTED]
Load No:
Hearing Date:
April 29, 2010
losco 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 April 29, 2010, in East Tawas. The claimant personally appeared and testified under oath. The claimant was represented at the hearing by [REDACTED].

The department was represented by Kelly Somers (ES).

Claimant requested additional time to submit new medical evidence.

Claimant waived the timeliness requirements so his new medical evidence could be reviewed by SHRT.

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 (August 13, 2009) who was denied by SHRT (January 29, 2010) based on claimant's failure to establish an impairment which meets the department's severity and duration requirements.
- (2) Claimant's vocational factors are: age--51; education—high school diploma; post high school education—[REDACTED] (two semesters, math major); work experience—maintenance worker (snow removal and lawn care) for [REDACTED]; rough and finish carpenter for 17 years.
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since he worked as a maintenance man and lawn care technician for [REDACTED] in 2007.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Shortness of breath;
 - (b) Chronic fatigue;
 - (c) Legs "shake";
 - (d) Difficulty going up stairs;
 - (e) COPD;
 - (f) Asthma; and
 - (g) Hypertension.
- (5) On April 19, 2011, the Social Security Administration approved claimant for SSI benefits for the disability onset date of June 1, 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).

On April 19, 2011, the Social Security Administration approved claimant for SSI benefits for the disability onset date of June 1, 2009.

Therefore, the Administrative Law Judge does not have jurisdiction to rule on the issue of disability at this time.

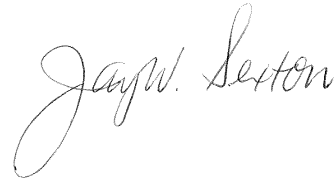
DECISION AND ORDER

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 a recent approval from the Social Security Administration.

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

If claimant meets the relevant financial eligibility requirements, the department shall open claimant's MA-P case effective May 2009.

SO ORDERED.



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

Date Signed: June 23, 2011

Date Mailed: June 24, 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:

