

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: 2010-30736
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 12, 2010
Otsego County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 May 12, 2010.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Medical Assistance (MA-P) and State Disability Assistance (SDA) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) On March 15, 2010, claimant applied for MA-P and SDA with the Michigan DHS.
- (2) Claimant did apply for retro MA.
- (3) On March 26, 2010, MRT denied.
- (4) On March 30, 2010, the DHS issued notice.

- (5) On April 26, 2010, claimant filed a hearing request.
- (6) Claimant has an SSI application pending with the Social Security Administration (SSA).
- (7) On April 22, 2010, the State Hearing Review Team (SHRT) denied claimant.
- (8) As of the date of application, claimant was a 35-year-old, standing 5'5" tall and weighing 250 pounds. Claimant's BMI is 41.6, classifying claimant as morbidly obese under the BMI Medical Index. Claimant has a 9th grade education.
- (9) Claimant does not have an alcohol/drug abuse nor nicotine addiction.
- (10) Claimant does not have a driver's license due to it being suspended by self-report for failing to pay a responsibility fee.
- (11) Claimant is not currently working. Claimant last worked in November 2009 as a hostess at [REDACTED]. Claimant's work history is unskilled.
- (12) Claimant alleges disability on the basis of bipolar, concentration issue, generalized anxiety disorder, major depression, and polysubstance dependence. Claimant did not testify as to a polysubstance dependence as exhibited in the February 12, 2010 evaluation.
- (13) Claimant submitted multiple evidentiary evidence substantiating statutory disability.
- (14) A DHS-49E completed on May 12, 2010 indicates that claimant is markedly limited in eight categories out of twenty; moderately limited in eight categories out of twenty.

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).

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Statutory authority for the SDA program states in part:

- (b) A person with a physical or mental impairment which meets federal SSI disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

After a careful review of the substantial and credible evidence on this whole record, this ALJ finds that claimant meets or equals Listing 12.04. In reaching this conclusion, it is noted that claimant submitted a number of documents to substantiate statutory disability.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were incorrect.

Accordingly, the department's determination in this matter is REVERSED.

The department is ORDERED to make a determination if claimant meets the non-medical criteria for MA and SDA programs. If so, the department is ORDERED to open an MA and SDA

cases from the date of application and issue supplemental benefits to claimant. The department is ORDERED to review this case in accordance with its usual policy and procedure.

/s/ _____
Janice G. Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 1, 2010

Date Mailed: June 1, 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 mailing date of the rehearing decision.

JS/tg

cc:

