

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: 2010-3599
Issue No: 2009; 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 15, 2009
Otsego 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 in Gaylord on December 15, 2009. Claimant personally appeared and testified under oath.

The department was represented by Dale Terryberry (FIM) and Cindy Hoover (ES).

Claimant requested additional time to submit the new medical evidence. Claimant's medical evidence was sent to the State Hearing Review Team (SHRT) on January 26, 2010. Claimant waived the timeliness requirement so that his new medical evidence could be reviewed by SHRT. **On January 27, 2010, SHRT approved claimant for disability benefits.**

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P) or 90 days (SDA)?
- (2) Did claimant establish a severe physical impairment expected to preclude him from substantial gainful work, **continuously**, for one year (MA-P) or 90 days (SDA)?

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/SDA applicant (August 27, 2009) who was denied by SHRT (October 29, 2009) due to claimant's failure to submit medical evidence establishing an impairment which meets the severity and duration requirements.

(2) Claimant's vocational factors are: age--54; education--10th grade; post high school education—none; work experience—landscape foreman, grounds crew worker and cement laborer.

(3) Claimant has not performed Substantial Gainful Activity (SGA) since he was a foreman for a landscape contractor in 2006.

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

- (a) Leg needs new veins;
- (b) leg vein surgery recommended;
- (c) back dysfunction;
- (d) S/P low back fusion;

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

OBJECTIVE MEDICAL EVIDENCE (1/27/10)

MEDICAL SUMMARY:

The claimant is alleging disability secondary to acute coronary syndrome, back pain and peripheral neuropathy. The claimant has a history of coronary bypass x3, page 39. At this time, the claimant was also diagnosed with underlying emphysema. A resonance image, page 26, shows an abdominal aortic aneurysm, small renal cysts, causing moderate central canal stenosis. An administrative Law Judge ordered physical examination reveals a draining ulcer on the right foot secondary to poor peripheral vascularization.

ANALYSIS:

The evidence supports that it is reasonable that the claimant, while not meeting the criteria for any listing, does have multiple significantly impairing conditions that would limit the claimant to performing no greater than sedentary tasks.

* * *

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).

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).

On January 27, 2010, SHRT approved claimant for MA-P/SDA benefits.

Therefore, it is not necessary for the ALJ 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/SDA disability requirements under PEM 260/261. Claimant is disabled for MA-P/SDA purposes based on the January 27, 2010 approval by SHRT.

Accordingly, the department will review claimant's eligibility in February 2011, and will obtain a new physical examination to determine his current ability to work.

SO ORDERED.

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

Date Signed: February 17, 2010

Date Mailed: February 17, 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.

JWS/cv

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