

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-4
Issue No: 2009; 4031
Case No: [REDACTED]

Hearing Date:
December 10, 2009
St. Clair 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 December 10, 2009, in Port Huron. The claimant personally appeared and testified under oath. The claimant was represented by [REDACTED] from [REDACTED].

The department was represented by Sandy Harder (FIM).

Claimant requested additional time to submit new medical evidence. Claimant's new medical evidence was mailed to the State Hearing Review Team (SHRT) on December 9, 2009. Claimant waived the timeliness requirement so his new medical evidence could be reviewed by SHRT. After SHRT's second disability denial, the Administrative Law Judge issued the decision below.

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 (January 6, 2009) who was denied by SHRT (October 7, 2009 and January 4, 2010) due to claimant's ability to perform unskilled light work. SHRT relied on a recent Social Security Administration denial, dated January 29, 2009. Claimant requests retro MA for October, November and December 2008. The recent RSDI denial by the Social Security Administration covers the period March 2006 through January 2009.
- (2) Claimant's vocational factors are: age--51; education—high school diploma; post high school education--none; work experience—machine operator for the [REDACTED].
- (3) Claimant has not performed Substantial Gainful Activity (SGA) (since 2006) since he worked as a machine operator.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Heart failure;
 - (b) Inability to drive;
 - (c) Shortness of breath (SOB); and
 - (d) Vision dysfunction.
- (5) SHRT evaluated claimant's medical evidence as follows:

OBJECTIVE MEDICAL EVIDENCE (January 4, 2010)

MEDICAL SUMMARY:

Claimant is alleging disability secondary to hypertension, cardiomyopathy, a history of congestive heart failure and obesity.

ANALYSIS:

This case was returned by Administrative Hearings with new evidence which does not significantly impact the prior decision made by the State Hearing Review Team, dated October 7, 2009.

RECOMMENDATION:

Claimant's impairments do not meet/equal the intent or severity of a Social Security Listing. The medical evidence of record indicates that claimant retains the capacity to perform a wide range of light, semi-skilled work.

Therefore, based on claimant's vocational profile (51 years old, high school education and a history of medium semi-skilled work) MA-P is denied using Med-Voc Rule 202.14 as a guide. Retroactive MA-P was considered in this case and is also denied. State Disability Assistance is denied per PEM 261, because the nature and severity of claimant's impairments would not preclude work activity at the above-stated level for 90 days.

Also, there is a Social Security Administrative Law Judge denial, dated January 29, 2009, in the file with the same findings (covering the same period of time).

Listings 4.02/.04 and 5.01 were considered in this determination.

[Claimant is not disabled for MA-P/SDA purposes]

- (6) Claimant lives alone and eats at his brother's house. Claimant performs the following Activities of Daily Living (ADLs): dressing, bathing, light cleaning, mopping, vacuuming, and grocery shopping. Claimant does not use a cane, walker, wheelchair or shower stool. Claimant does not wear braces. Claimant was hospitalized in 2008 on three occasions to obtain treatment for depression, congestive heart failure, cardiomyopathy, diabetes, pneumonia and upper abdominal pain.
- (7) Claimant has a valid driver's license and drives an automobile approximately four times a month. Claimant is not computer literate.
- (8) Claimant does not allege a severe mental impairment as a basis for his disability. There are no probative psychiatric reports in the record. Claimant did not provide a DHS-49D or DHS-49E to establish his mental residual functional capacity.
- (9) The probative medical evidence does not establish an acute (exertional) physical impairment (or combination of impairments), expected to prevent claimant from performing all customary work functions for the required period of time. See Paragraph #8 above.
- (10) Claimant's March 9, 2006 application for federal disability benefits (RSDI) was denied by SSA on January 29, 2009 (See Paragraph #5 above).

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).

Pursuant to the department's policy manual, BEM 260, and BAM 600, the Social Security Administration has controlling authority with regard to Medicaid eligibility.

Based on the January 29 SSA denial of claimant's RSDI application, covering the period March 2006 through January 2009, claimant is not eligible for RSDI benefits based on disability.

Therefore, the undersigned Administrative Law Judge has no jurisdiction to review claimant's eligibility for the period October 2008 through January 2009.

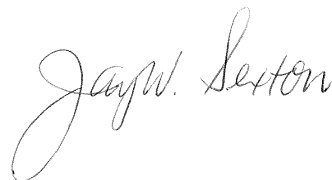
Based on this analysis, the department correctly denied claimant's MA-P application pursuant to the January 29, 2009 RSDI denial issued by ALJ Richard Sasena.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant does not meet the MA-P disability requirements under BEM 260.

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

SO ORDERED.



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

2010-4/JWS

Date Signed: July 6, 2011

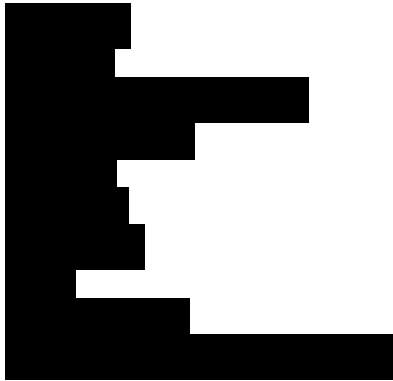
Date Mailed: July 7, 2011

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:

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