

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-43603

Issue No: 2009

Case No: [REDACTED]

Load No:

Hearing Date:

October 28, 2010

Clare 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 October 28, 2010, in Harrison. The claimant personally appeared and testified under oath. The claimant was represented at the hearing by [REDACTED] from [REDACTED].

The department was represented by Abby Marcus (ES).

ISSUES

- (1) Did claimant establish a severe mental impairment expected to preclude her from substantial gainful work, **continuously**, for one year (MA-P)?
- (2) Did claimant establish a severe physical impairment expected to preclude her 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 (December 1, 2009) who was denied by SHRT (July 28, 2010) due to claimant's failure to establish the required severity and duration.

- (2) Claimant's vocational factors are: age--51; education—high school diploma; post high school education—courses in nursing; work experience—cook and cashier at a pizza store and cook at [REDACTED] restaurant.
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since she worked as a cook for [REDACTED] in 2009.
- (4) Claimant has the following unable-to-work complaints:
 - (a) Needs neck surgery;
 - (b) Herniated discs;
 - (c) Motor vehicle accident in 2009; and
 - (d) Spine dysfunction.
- (5) On June 14, 2011, the Social Security Administration approved claimant for RSDI benefits with a disability onset date of September 27, 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 June 14, 2011, the Social Security Administration approved claimant for RSDI benefits with a disability onset date of September 27, 2009.

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

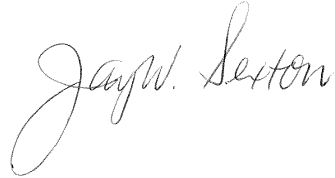
DECISION AND ORDER

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 by 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 September 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:

