

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: 2010-45104  
Issue No: 2009  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
September 22, 2010  
Antrim 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 Bellaire on September 22, 2010. The claimant personally appeared and testified under oath. Claimant was represented by [REDACTED].

The department was represented by Janis Jankowski (AP Supervisor) and Nancy Swartz (APW).

Claimant requested additional time to submit new medical evidence. Claimant's new medical evidence was mailed to the State Hearing Review Team (SHRT) on October 7, 2010. Claimant waived the timeliness requirement so his new medical evidence could be reviewed by SHRT. **On October 19, 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)?

(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 applicant (April 27, 2010) who was denied by SHRT (August 5, 2010) due to insufficient evidence.
- (2) Claimant's vocational factors are: age--58; education--10th grade; post high school education--none; work experience--steamroller operator and overhead crane operator.
- (3) Claimant has not performed Substantial Gainful Activity (SGA) since he was an overhead crane operator in 2003.
- (4) Claimant has the following unable-to-work complaints:
  - (a) Lung disease;
  - (b) Uses supplemental oxygen (24/7);
  - (c) Back pain;
  - (d) Sugar problems; and
  - (e) Shortness of breath.
- (5) SHRT evaluated claimant's medical evidence as follows:

**OBJECTIVE MEDICAL EVIDENCE (August 5, 2010)**

**MEDICAL SUMMARY:**

In 4/10, claimant had increased AP diameter. He had diffuse decreased breath sounds. He had decreased mobility of the lumbar spine. He had bilateral tenderness with palpitation of the lumbar spine. There were no motor or sensory deficits. His affect was normal. He was anxious (page 95).

In 5/10, the claimant had mild discomfort with movement. He was well-groomed (page 103). There were bilateral diffuse wheezes and decreased breath sounds with a cough. He had mild dyspnea with walking a few feet. He had decreased range of motion of the

lumbar spine. Neurological findings were within normal limits. He had mild anxiety (page 104).

\* \* \*

**ANALYSIS:**

The claimant has some limitations related to his spine and chronic obstructive pulmonary disease. He would be limited to at least light work; however, he has light work history. Therefore, pulmonary function study would be helpful to evaluate if he is able to do light work or not.

\* \* \*

- (6) On October 19, 2010, SHRT approved claimant for MA-P.

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 October 19, 2010, SHRT approved claimant for MA-P 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 disability requirements under PEM/BEM 260. Claimant is disabled for MA-P purposes based on the October 19, 2010 approval by SHRT.

Accordingly, the department will review claimant's MA-P eligibility in November 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: November 5, 2010

Date Mailed: November 8, 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 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:

