

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: 2008-24485

Issue No: 4070

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 30, 2009

Tuscola County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on July 30, 2009.

ISSUE

Was the claimant's State SSI payment correctly terminated?

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 was receiving a State SSI payment of \$42 quarterly, or \$14 monthly.
- (2) Claimant was a federal SSI recipient, receiving SSI in the amount of \$543 per month.
- (3) This amount later increased to \$637 on 7-1-08.

(4) Claimant received a notice on 5-23-08 that her State SSI payment was being cancelled.

(5) This was ostensibly because claimant had not received a monthly federal SSI payment for 3 months.

(6) Claimant had received a federal SSI payment during the time in question.

(7) SOLQs showed that claimant had received a federal SSI payment during the time in question.

(8) The Department still proceeded with the cut-off, arguing that claimant had not received a federal SSI payment.

(9) Claimant presented a letter directly from the Social Security Administration showing that she had received a monthly federal SSI payment.

(10) On 6-13-09, claimant requested a hearing.

CONCLUSIONS OF LAW

The State Supplementary Security Income program was established pursuant to Title XVI of the Social Security Act in 42 USC 1381, *et seq.*, and implemented by the provisions of Title 20 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the State SSI program pursuant to 2002 PA 529, MCL 400.10, *et seq.*, and by agreement between the State of Michigan and the United States Secretary of Health and Human Services (Secretary). Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

DHS issues the State SSI Payment (SSP) to SSI recipients. PEM 660. Payments are made for only those months the recipient received a regular monthly federal benefit. PEM 260.

The evidence is overwhelming that claimant was receiving a federal monthly SSI benefit. However, the Department oddly insisted on arguing that claimant was not. This was in light of the fact that all of the evidence the Department presented to support its case showed that the claimant was receiving a monthly SSI benefit, directly refuting its own argument.

Department Exhibit 2, the SSI SOLQ shows that as of 1-1-08, until 7-1-08, claimant was receiving a monthly federal SSI payment of \$543 per month. This shows a payment flag of “1”. A payment flag of “1” means that this payment is a recurring payment. Furthermore, claimant’s payment status is listed as “C01”. A payment status of “C01” means that the claimant is currently receiving a monthly SSI check. According to this SOLQ, claimant had been receiving a payment since March 2006, where she had a hearing (Code “H”) that was fully favorable (Code “FF”).

Given that this is from an SOLQ that the Department itself ran, the Department’s insistence that the claimant was not receiving a federal SSI check is odd. This is *prima facie* evidence that she was. The Administrative Law Judge can only conclude that the Department representative either does not know how to read an SOLQ, or was being willfully ignorant. Neither scenario speaks kindly with regard to the Department’s capabilities.

Furthermore, claimant submitted a letter from the Social Security Administration, dated 5-23-08, which said that claimant had received a total of \$2,715 in SSI benefits in the period of 1-1-08 to 6-1-08. The Department representative insisted that this meant the claimant had received a lump sum benefit of \$2,715. The undersigned would point out that nowhere on this letter does it state that claimant received a lump sum benefit—only that claimant received \$2,715 in benefits during a 5 month period. Unsurprisingly, when one divides \$2,715 by 5, the total is \$543; exactly the amount claimant was receiving monthly, according to the SOLQ. Again, the

undersigned is unsure whether the Department was being willfully ignorant in this matter, or chose not to apply basic mathematical principals to the situation.

Regardless, there is no evidence in the slightest with regard to the argument that claimant was not receiving a monthly federal SSI payment. There is much evidence with regard to the fact that claimant was receiving a federal SSI payment. The intractability of the Department with regard to this large amount of evidence is both worrisome and annoying. This is a matter that should have been resolved over a year ago, when it became painfully apparent that claimant was receiving a federal SSI payment. This is not a matter that should have been brought up for hearing with a stubborn insistence that the evidence does not say what it plainly does, wasting the time of all involved. The Department is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to cut off claimant's State SSI payment was incorrect.

Accordingly, the Department's decision is REVERSED.

The Department is ORDERED to restore claimant's benefits retroactive to the negative action date and remove all negative actions resulting from the current situation.

/s/ _____
Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: September 21, 2009

Date Mailed: September 21, 2009

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 receipt date of the rehearing decision.

RJC/cv

cc:

