

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: 2009-18382

Issue No: 4017

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 19, 2010

Bay County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 4, 2009. After due notice, a telephone hearing was held on Wednesday, May 19, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's State Supplemental Security Income (SSI) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) The Claimant receives SSI benefits.
- (2) On February 25, 2009, the Department sent notice to the Claimant that it would reduce her State SSI payment.

(3) The Department received the Claimant's request for a hearing on March 4, 2009, protesting the reduction in her State SSI benefits.

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 Family Independence Agency 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). Agency policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

An opportunity for a hearing shall be granted to an applicant who requests a hearing because their claim for assistance is denied, or to any recipient who is aggrieved by any department action resulting in suspension, reduction, discontinuance, or termination of assistance. Michigan Administrative Code Rule 400.903(1).

The Department has the burden of proof to prove that its actions were supported by policy. In this case, the Department could not explain the reason for the change in the Claimant's State SSI payment. The Department was unable to explain to the Claimant how the changes in her SSI benefits affected her State SSI benefit. The fact that the Department consulted with the State SSI Coordinator did not relieve it from presenting evidence at the hearing supporting the negative action affecting the Claimant.

Therefore, the Department has failed to meet its burden of establishing that it acted in accordance with policy concerning the Claimant's State SSI payment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it acted in accordance with policy when it reduced the Claimant's State SSI benefit.

The Department's SSI eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Redetermine the Claimant's State SSI eligibility for January of 2009.
2. Issue to the Claimant any retroactive SSI benefits she may be entitled to receive.
3. Notify the Claimant of her SSI eligibility for the month of January, 2009.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 28, 2010

Date Mailed: May 28, 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 60 days of the filing of the original request.

2009-18382/KS

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.

KS/vc

cc:

