

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: 2009-20191

Issue No: 4011

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

September 24, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing has conducted from Detroit, Michigan on September 24, 2009. The Claimant appeared and testified. Robbi Crosby, ES and Yolanda Ali, FIM appeared for the Department.

ISSUE

Whether the Department determined the appropriate amount of SDA benefits?

FINDINGS OF FACT

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

1. The Claimant applied for SDA benefits on 3/11/09.
2. On 4/30/09, Claimant's application was denied.
3. The Department indicated that the reason for denial was that Claimant did not turn in verifications. However, the Department was unable to indicate what was

requested of Claimant or what was not turned in as there was no verification request in the file.

4. Claimant testified that he turned in everything requested.
5. On 6/1/09, Claimant reapplied for SDA benefits.
6. The Department certified that Claimant is residing in a substance abuse treatment program which meets the requirements for a Special Living Arrangement facility.
7. A SDA Budget was compiled on 6/2/09 resulting in benefits calculated in the amount of \$49.00 per month. (Exhibit 1).
8. On June 10, 2009, the Department received the Claimant's hearing request protesting the 4/30/09 denial of benefits and the amount of benefits awarded 6/1/09.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In order to qualify for SDA benefits, an individual must be disabled, caring for a disabled person, or age 65 or older. PEM 261, p. 1. In addition, persons admitted to a qualified Special Living Arrangement (SLA) facility meet the SDA disability criteria. Qualified SLA facilities are:

- Homes for the aged,
- County infirmaries,

- Adult foster care homes, and
- Substance abuse treatment centers (SATC).

PEM 261, p. 2.

A. 4/30/09 Denial of Benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can obtain verification despite a reasonable effort, the best available information should be used. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3.

In the subject case, the Administrative Law Judge finds that the Department's evidence is insufficient to meet the burden of showing that the 4/30/09 denial of SDA benefits was proper. The Department provided no evidence of a request for verification being sent to Claimant. Nor could the Department indicate what verification was not returned. Since the regulations provide that extensions or help be given to Claimant as requested or that best information be used, it is necessary to know what verification was requested in order to allow Claimant to respond. The Administrative Law Judge finds Claimant's testimony that he turned in all requested information

credible. Accordingly, since the Department has failed to provide the necessary evidence to show that Claimant was noncompliant, the 4/30/09 denial is REVERSED.

B. Calculation of Benefits

The eligible group must be in financial need to receive benefits. Need is determined to exist when budgetable income is less than the payment standard established by the department. Program, living arrangement, grantee status and eligible group size are variables that affect the payment standard. PEM 515, p. 1. Specifically, Financial need exists when the eligible individual's needs are greater than the payment standard – the maximum benefit that can be received. Id. There are different payment standards for individuals living independently (RFT 225) and those living in a special living arrangement. RFT 235.

The Service Code indicates the type of service a special living arrangement provider is authorized to provide the specific client for whom an authorization is being made. Service Codes are defined as follows:

- 0601 – GA/HA
- 0602 – GA/AFC Domiciliary Care
- 0603 - GA/AFC Personal Care
- 0604 – GA Substance Abuse – Accredited
- 0605 – GA Substance Abuse – Nonaccredited
- 0606 – GA County Infirmary – Personal Care (PC)
- 0607 – GA County Infirmary – Domiciliary Care (DC)

The Service Codes then define the SDA Payment rates. RFT 235 contains payment standards for service codes 0601, 0602, 0303, 0606 and 0607. Missing, however, is the payment standards for the Substance Abuse Center as SIC S indicates that 0604 and 0605 were codes used prior to 10/1/91 and appears only on Authorization History. As there is no payment standard specified for Claimant living in a Substance Abuse Center and he is not living independently, Claimant's

only remaining payment option is the SDA Incidentals Allowance which, at the time of Claimant's application was \$44.00 per month.

In the subject case, Claimant has been receiving \$49.00 per month for SDA benefits. The Department was unable to document where the authorization for the payment of \$49.00 per month originated from. Claimant's sole basis for qualifying for SDA benefits is his residence in the Substance Abuse Treatment Center (SATC). If claimant were living independently, he would need to file an SDA application based on disability as he is not 65 years of age. Claimant has applied for RSDI and is entitled to file an SDA application based on disability at any time. The Administrative Law Judge finds that currently since Claimant is receiving SDA based on his living in a SATC and there is no payment authorization for said living arrangement, Claimant is only entitled to the incidental allowance payment amount of \$44.00/month.

Claimant, therefore, does not qualify for FIP benefits and the Department's decision to deny benefits is AFFIRMED in part.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly denied the Claimant SDA benefits effective 4/30/09:

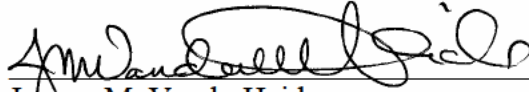
Accordingly, it is ORDERED:

1. The Departments SDA denial of 4/30/09 is REVERSED.
2. The Department shall reopen and reprocess the Claimant's 3/11/09 SDA Application back to the date of closure, delete any the negative action for non-cooperation and supplement the Claimant for any lost benefits he was otherwise entitled to receive.

Furthermore, the Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly calculated the Claimant's SDA Benefits.

Accordingly it is ORDERED:

1. The Department's shall recalculate Claimant's SDA benefits based on the SDA Incidentals Allowance rate in effect at the time of his benefits paid.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/12/09

Date Mailed: 11/17/09

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.

JV/dj

cc:

