

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: 2010-38524
Issue No: 4002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 7, 2010
Genesee 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 18, 2010. After due notice, a telephone hearing was held on Wednesday, July 7, 2010.

ISSUE

Whether the Department of Human Services (Department) acted in accordance with policy when it terminated the Claimant's State Disability Assistance (SDA) benefits for failure to cooperate in the verification of his citizenship?

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 received SDA benefits until April 1, 2010. Department Exhibit

(2) The Department sent the Claimant a verification checklist on August 17, 2009, with a due date of August 27, 2010. Department Exhibit 10.

(3) The Department sent the Claimant a verification checklist on October 9, 2009, with a due date of October 20, 2010. Department Exhibit 9.

(4) The Department sent the Claimant a verification checklist on February 20, 2010, with a due date of March 2, 2010. Department Exhibit 8.

(5) On February 20, 2010, the Department notified the Claimant that it would terminate his SDA benefits as of April 1, 2010, because a group member has not provided proof of citizenship or immigration status. Department Exhibit 4 – 5.

(6) The Claimant completed an application for a copy of his birth certificate from the State of [REDACTED] on March 9, 2010. Department Exhibits 2 – 3.

(7) The Department received the Claimant's request for a hearing on March 18, 2010, protesting the termination of his SDA benefits.

CONCLUSIONS OF LAW

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

To be eligible for FIP or SDA a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status, and U.S. citizenship must be verified with an acceptable document when questionable to receive FIP or SDA. BEM 225. The Department shall not request verification from a person claiming U.S. citizenship unless the client's

statements are questionable. The Department will disqualify a person who is unable to obtain verification or refuses to cooperate in obtaining it. BEM 225. The first step in establishing citizenship is the data match with the Social Security Administration, and the Department should complete before requesting verification from a recipient. BEM 225. The Department will use the most reliable available (public records, data matches), but will otherwise use the one easiest to obtain. BAM 130.

The Claimant was been receiving SDA benefits. The Department did not offer evidence or testimony explaining its justification for questioning the Claimant's claim of being a U.S. Citizenship. Bridges Eligibility Manual (BEM) item 225 established a procedure outlining how the Department will verify a SDA recipient's U.S. Citizenship status. The first step of this procedure is the data match with the Social Security Administration. The Department did not offer evidence or testimony explaining whether it attempted a data match with the Social Security Administration to verify the Claimant's citizenship.

The Department testified that Bridges Eligibility Manuel (BEM) item 225 requires that a SDA recipient verify U.S. Citizenship or qualified alien status, and that failure to do so justifies termination of benefits.

The Department did not offer evidence or testimony explaining its failure to attempt a data match with the Social Security Administration. The Department did not offer evidence or testimony explaining if it provided the Claimant with any assistance from August 17, 2009, through February 2, 2010, to verify his U.S. Citizenship. The Department failed to establish that the Claimant refused to cooperate with the Department in its attempts to verify his U.S. Citizenship. Therefore, the SDA eligibility determination cannot be upheld.

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 properly terminated the Claimant's SDA benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

- (1) Initiate a data match with the Social Security Administration to verify the Claimant's U.S. Citizenship status.
- (2) Provide the Claimant with an explanation of the alternatives to establish U.S. Citizenship if the Department is unable to establish citizenship through the Social Security Administration.
- (3) Initiate a determination of the Claimant's eligibility for SDA benefits as of April 1, 2010.
- (4) Issue the Claimant any retroactive SDA benefits he may be eligible to receive, if any.
- (5) Notify the Claimant of the Department's SDA eligibility determination.

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

Date Signed: July 19, 2010

Date Mailed: July 20, 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.

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:

