

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201044574
Issue No.: 4013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 23, 2010
Office: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 was held on September 23, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's State Disability Assistance (SDA) benefits effective 8/1/10 due to excess income.

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 an ongoing SDA recipient.
2. Claimant verified weekly gross income of \$135/week from short-term disability through her employment.
3. On 6/26/10, DHS mailed a Notice of Case Action (Exhibit 1) initiating the termination of Claimant's SDA benefits due to excess-income (Exhibit 2) to be effective for benefit month 8/1/10; the effective date of closure would have been 7/10/2010.

4. On 7/2/10, Claimant submitted a check stub (Exhibit 3) from her short-term disability indicating that she would not receive any payments following receipt of her 6/23/10 pay period check.
5. Despite Claimant's verification of stopped income, DHS proceeded with the termination of SDA benefits.
6. On 7/2/10, Claimant submitted a hearing request disputing the termination of her SDA benefits due to excess income.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Financial need must exist to receive SDA benefits. Financial need exists when the certified group passes both the Deficit Test and the Child Support Income Test. BEM 518 at 1. Bridges (the DHS database) compares budgetable income for the income month to the certified group's payment standard for the benefit month. The group is ineligible for the benefit month if no deficit exists. *Id* at 2.

As of 6/26/10, the time of the DHS negative action, Claimant verified receiving \$135/month in gross income. Though Claimant contends that she received less than \$135/week in net income, the gross amount is the appropriate amount to budget for an insurance payment. BEM 503 at 22. The average was not disputed to be \$135/week in gross employment earnings. Claimant's gross weekly income (\$135) is multiplied by the four weeks in a month resulting in a monthly income of \$540/month. The SDA payment standard for a one-person SDA group is \$269/month. RFT 255. Claimant's monthly income exceeds the SDA payment standard; thus, Claimant failed the deficit test for SDA income-eligibility. It is found that DHS properly initiated termination of Claimant's SDA benefits on 6/26/10.

Claimant's SDA benefits remained open until 7/10/10 to allow Claimant timely notice of the SDA benefit closure. Timely notice means that the action taken by the department is effective at least 12 calendar days following the date of the department's action. BAM 220 at 9.

For income increases that result in a benefit decrease, action must be taken and notice issued to the client within the Standard of Promptness (SDA - 15 workdays). The

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effective month is the first full month that begins after the negative action effective date. BEM 505 at 9.

Prior to the termination of her SDA benefits Claimant reported a benefit decrease to DHS, that she would no longer receive short-term disability payments. On 7/2/10, Claimant verified that she would no longer receive the short-term disability payments as of pay period 6/23/10 based on a statement on her 6/11/10 check stub (Exhibit 3), which stated "Benefits have been approved through 23/JUNE/2010, (Short-Term Disability expiration date) representing the maximum benefit period under the plan. Benefits will be issued on a weekly basis until the expiration date and your claim has been closed." As of the time Claimant verified the income decrease, her SDA case was active and DHS should have prospected \$0/month in short-term disability income beginning 8/2010. DHS did not do this and simply allowed Claimant's SDA benefits to close. By neglecting to process Claimant's reported income decrease, it is found that DHS improperly terminated Claimant's SDA benefits.

There was also an issue of recoupment of SDA benefits raised during the hearing. Claimant testified that after she submitted her hearing request, DHS attempted to collect an alleged over-issuance of SDA benefits. The undersigned does not have jurisdiction over the recoupment as it was not an issue raised by Claimant's hearing request. Claimant testified that the recoupment occurred after she submitted a hearing request. The undersigned lacks jurisdiction for unrelated DHS actions that occur after the hearing request is filed. Claimant may submit another hearing request if she still disputes the DHS action of SDA benefit recoupment.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 at 1. Claimant's basis for SDA was as a disabled person.

DHS testified that Claimant was certified as disabled by the Medical Review Team (MRT) only until 5/30/10. DHS contended that Claimant would not have been eligible for SDA benefits after 5/30/10 because she failed to establish that she was disabled for a period after 5/30/10.

Specialists are instructed to verify a client's disability or the need for a caretaker at application, redetermination, when required by the disability examiner, or as needed when the client's circumstances change. *Id* at 5. Further instructions state to not immediately send a negative action notice for case closure; the specialist must first request verification according to policy in BAM 130. *Id*. Thus, Claimant must verify her disability to receive SDA benefits, but DHS must provide an opportunity for Claimant to verify the disability. DHS has yet to provide Claimant with that opportunity. Accordingly, DHS may not validly deny Claimant's SDA benefits due to a lack of disability until an opportunity to verify the disability has been provided.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's SDA benefits due to excess income. It is ordered that DHS reinstate and redetermine Claimant's SDA benefits effective 8/1/10 based on the finding that Claimant sufficiently verified that her short-term disability ended in 6/2010.

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

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