

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-22213
Issue No: 3000; 4008

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 on February 22, 2011. After due notice, a telephone hearing was held on May 24, 2011. Claimant personally appeared and provided testimony.

The law, MCL 24.278(2) provides that a disposition may be made of a contested hearing by stipulation or agreed settlement. In this case, the department explained that in preparing for this hearing they discovered that a Redetermination packet had not been sent to Claimant resulting in his FAP benefits being closed effective May 1, 2011. As a result of their error, the department was willing to make Claimant's FAP benefits retroactive to May 1, 2011, once they received his Redetermination packet. Claimant agreed this resolved his FAP issue. Therefore, it is not necessary for the Administrative Law Judge to decide the FAP matter that was in dispute.

Pursuant to MAC R 400.906 and 400.903, Claimant's hearing request for FAP benefits is HEREBY DISMISSED, because Claimant is no longer aggrieved by a department action.

ISSUE

Whether the department properly determined Claimant's State Disability Assistance (SDA) 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. Claimant applied for State Disability Assistance (SDA) on February 15, 2011. (Hearing Summary).
2. On February 16, 2011, the department processed Claimant's application and determined Claimant already had an open FAP case. The department mailed Claimant a Notice of Case Action denying Claimant's SDA application because individuals in his group did not include a dependent child, a caretaker/relative of a child, were pregnant, were not aged or disabled, were not a refugee and did not have a qualifying relationship to other household members. (Hearing Summary; Department Exhibits 11-15).
3. Claimant submitted a hearing request on February 22, 2011 protesting the denial of his SDA application. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180.

State Disability Assistance (SDA) is a cash program for individuals who are not eligible for the Family Independence Program (FIP) and are disabled or the caretaker of a disabled person. An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living together. BEM 214.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261. A person is disabled for SDA purposes if he:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.

- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability. BEM 261.

In addition, persons receiving one of the following benefits or services meet the SDA disability criteria:

- Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- Supplemental Security Income (SSI), due to disability or blindness.
- Medicaid (including deductible) as blind or disabled if the disability/blindness is based on:
 - A disability examine (DE)/medical review team (MRT) determination, or
 - A hearing decision, or
 - Having SSI which was based on blindness or disability that was recently terminated (within the past 12 months) for financial reasons; see Recently Eligible for SSI in BEM 260. BEM 261.
- Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has a signed active individual plan for employment (IPE) with MRS. Do **not** refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.
- Michigan Commission for the Blind (COB). A person is receiving services if he has been determined eligible for COB and has an active COB case.
- Special education services from the local intermediate school district. To qualify, the person may be:
 - Attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC);
Or
 - Not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a School program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as special education as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.

- Refugee or asylee who lost eligibility for SSI due to exceeding the maximum time limit. BEM 261.

Additionally, 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). BEM 261.

Moreover, a person receiving post-residential substance abuse treatment meets SDA disability criteria for 30 days following discharge from the SATC. To qualify, the person must:

- Have received SDA while residing in the SATC, and
- Continue outpatient substance abuse treatment immediately following discharge.

Note: If a client states they have a plan and a scheduled date to continue outpatient substance abuse treatment, then they would be eligible for the 30 days post treatment SDA. BEM 261.

When the person does not meet one of the criteria under Other Benefits or Services or Special Living Arrangements, obtain medical evidence of the disability and submit it to the Disability Examiner (DE) for a determination. The DE will review the medical evidence and either certify or deny the disability claim based on the medical evidence. The DE will deny the disability claim if the medical evidence shows that substance abuse is a contributing factor material to the determination of disability. The DE may approve the disability claim if the medical evidence shows that substance abuse is **not** material to the determination of the disability. BEM 261.

A caretaker of a disabled person may receive SDA provided that the assistance of the caretaker is medically necessary for at least 90 days and the caretaker and the disabled person live together. Assistance means personal care services and includes meal preparation, laundry, food shopping, errands, light cleaning, non-nursing personal care (bathing, dressing, etc.) and assistance with medication. The disabled person does not have to be related to the caretaker or receive SDA. Finally, persons age 65 or older may receive SDA. BEM 261.

In this case, Claimant applied for SDA on February 15, 2011. On February 16, 2011, the department mailed Claimant a Notice of Case Action notifying him that he had been denied SDA because he did not meet the requirements. In order to be eligible for the SDA program, a person must be disabled, caring for a disabled person, or be age 65 or older. BEM 261. Claimant is not disabled and therefore does not meet the disability criteria to receive SDA. Furthermore, Claimant is not age 65 or older and does not care for a

disabled person. Based on departmental policy, the department properly denied Claimant SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied Claimant's SDA application.

Accordingly, the department's decision is UPHELD.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/26/11

Date Mailed: 5/26/11

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 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.

VLA/ds

