

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-9151
Issue No: 4060

[REDACTED]

[REDACTED]

Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (department) to establish an overissuance of benefits to Respondent. Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received an overissuance of State Disability Assistance (SDA) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent applied for and received SDA benefits.
2. On November 14, 2007, the department mailed Claimant a Benefit Notice (DHS-176) informing Respondent his SDA case was scheduled to be closed on November 30, 2007, as a result of the Medical Review Team denying his application for disability. (Department Exhibits 14-15).
3. Respondent timely submitted a Request for a Hearing and Respondent continued to receive SDA benefits pending the hearing. (Department Exhibits 1-2).
4. On May 21, 2008, Respondent failed to show for the scheduled hearing and his SDA benefit case was closed on June 4, 2008. (Department Exhibits 1-2, 24).

5. Respondent received [REDACTED] in SDA benefits during the pending of the hearing regarding the closure of his SDA benefit case for the period of December 2007 through June, 2008. (Department Exhibits 1-2, 4, 7-8).
6. Respondent failed to appear for his hearing, resulting in an SDA overissuance for the months of December 2007 through June, 2008, in the amount of [REDACTED]. (Department Exhibits 1-2, 4, 7-8).
7. Respondent submitted a request for a hearing contesting the debt establishment on December 8, 2010. (Hearing Request).

CONCLUSIONS OF LAW

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.

Departmental policy, states that when the client group receives more benefits than the group is entitled to receive, DHS must attempt to recoup the overissuance (OI). Repayment of an OI is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the OI occurred. Bridges will collect from all adults who were a member of the case. OIs on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725.

The OI period begins the first month benefit issuance exceeds the amount allowed by policy or 72 months before the date the OI was referred to the RS, whichever is later. The OI period ends the month before the benefit is corrected. The OI discovery date for a client or provider error is the date the RS can determine there is a client or provider error. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 700.

In accord with policy BEM 255, if a hearing request is filed timely and program benefits are restored, the department is required to recoup overissuances for SDA income eligible clients if:

- The request is later withdrawn.
- SOAHR denies the request.

- The AHR or, if none, the client fails to appear for the hearing and SOAHR gives you written instructions to proceed.
- The hearing decision upholds the department's action. BAM 600.

The overissuance is calculated from the date the negative action would have taken effect until the date the negative action is subsequently implemented. If an administrative recoupment is processed to recover an overissuance due to a hearing, the department sends a timely notice of case action. In this situation, the client is entitled to a hearing solely on the issue of the recoupment amount. If a cash repayment is sought to recover an overissuance, requests for a hearing will not be granted except in FAP cases. BAM 600.

In this case, Respondent's SDA case was due to close on November 30, 2007, due to the Medical Review Team denying Respondent's disability application. Respondent timely submitted a Hearing Request and SDA benefits continued to be paid to Respondent pending the hearing. Respondent failed to show for the scheduled hearing on May 21, 2008, and Respondent's SDA case was closed on June 4, 2008.

Because the benefits were pended as a result of Respondent's hearing request, the department is required to recoup the benefits if the client fails to appear for the hearing. The overissuance is calculated from the date the negative action would have taken effect until the date the negative action is subsequently implemented. BAM 600. The closure of Respondent's SDA case was scheduled for November 30, 2007. As a result of Respondent's failure to attend the hearing, the SDA case was closed on June 4, 2008.

Respondent testified that he has since been found disabled by the Social Security Administration with an eligibility date of October 16, 2006. The department submitted an SOLQ supporting Respondent's claim and showing he began receiving RSDI on April 1, 2007 in the amount of [REDACTED] a month. Respondent stated that since MRT was wrong and he is clearly disabled, he should not be liable for the overissuance in this case because he was entitled to it, based on his disability.

To be eligible for State Disability Assistance (SDA), a certified group must also 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. The specific program, living arrangement, grantee status and certified group size are variables that affect the payment standard. BEM 214. During the time period under review, Claimant was subsequently found to be disabled. A claimant with a group size of one has a maximum net income limit of [REDACTED]00, and a claimant with a spouse has a maximum net income limit of [REDACTED] under the SDA program. RFT 225. Claimant received unearned monthly income of [REDACTED] beginning April 1, 2007.

Therefore, during the overissuance period of December 2007 through June, 2008, Respondent was receiving RSDI in the amount of [REDACTED] a month. As a result, Respondent would have been ineligible to receive SDA during this period based on his excess income.

The Administrative Law Judge finds that the evidence presented by the department shows that Respondent received SDA pending the hearing. Based on Respondent's failure to appear for the hearing he received an overissuance of [REDACTED]. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of SDA benefits for the time period of December 2007 through June, 2008, that the department is entitled to recoup.

The department is therefore entitled to recoup SDA overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

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

Date Signed: 7/19/11

Date Mailed: 7/19/11

NOTICE: The law provides that within 60 days of mailing of the above Decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

VLA/ds

[REDACTED]