

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

IN THE MATTER OF:

[REDACTED]

Reg No. 2011-970

[REDACTED]

Saginaw 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 August 24, 2010. After due notice, a telephone hearing was held on July 6, 2011. Claimant personally appeared and provided testimony.

**ISSUE**

Did the department act properly in trying to recover a State Disability Assistance (SDA) overissuance that Claimant received due to department error?

**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 had been an SDA recipient at all times relevant to this matter.
2. Claimant last participated in the Michigan Rehabilitation Services on June 3, 2009. (Department Exhibits 44-45).
3. Due to a department error, the department failed to timely close Claimant's SDA benefits. As a result, Claimant received a [REDACTED] SDA overissuance during the period of August 2009 through January, 2010. (Hearing Summary; Department Exhibits 51, 53-58).
4. On May 25, 2010, the department sent Claimant a written notice of the SDA overissuance, a DHS-4358-B, requesting that she repay it. (Department Exhibit 53-57).

5. On August 24, 2010, the department received Claimant's hearing request, protesting the department's determination that she must repay the SDA overissuance that she received due to the department's error. (Hearing Request).

### **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. 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. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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.

The department explained that Claimant had only been approved for SDA because she was participating in the Michigan Rehabilitation Services (MRS). However, Claimant's last day of participation was June 3, 2009. Once Claimant was no longer participating in the MRS program, Claimant was no longer eligible for SDA because she was not disabled, caring for a disabled person, or age 65 or older as per policy BEM 261.

According to BEM 261, if the client's circumstances change so that the verification method used to establish eligibility is no longer valid, new verification must be obtained following policy in BAM 130. (For example, a client no longer participating in Michigan Rehabilitation Services or Special Education may now have to provide medical evidence.) Do not immediately send a negative action notice for case closure. You must first request verification according to policy in BAM 130.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department of Human Services (DHS) or the Department of Information and Technology staff or department processes. Some examples are available information was not used or was used

incorrectly, policy was misapplied, action by local or central office staff was delayed, computer errors occurred, information was not shared between department divisions (services staff, Work First! agencies, etc.) or data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.). If the department is unable to identify the type of overissuance, it is recorded as a department error. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700.

In this case, once Claimant stopped participating in MRS in June 2009, she was no longer eligible to receive SDA. The information that Claimant was no longer participating in MRS was not shared, and the department failed to send out a Verification Checklist to determine Claimant's continued eligibility. As a result, Claimant continued to receive \$269.00 per month from August 2009 through January 2010, when the error was discovered, resulting in a \$1,614.00 overissuance. Despite the department's errors, whenever a client receives more benefits than they are entitled to receive, as in this case, the department must attempt to recoup.

Claimant testified that because the department did not follow their own policies as outlined in BEM 261, she cannot be held responsible for the overissuance and was entitled to the benefits. When Claimant stopped participating in the MRS program, the department should have sent Claimant a Verification Checklist to determine whether she was still eligible to receive SDA. A verification checklist was not sent out, contrary to policy, and Claimant continued to receive SDA although she was no longer participating in MRS.

Claimant's grievance centers on dissatisfaction with the department's current policy. The department is required to recoup overissuances of SDA benefits, even when Claimant is not at fault. Claimant's request that she be allowed to keep the benefits because the department failed to follow their own policy is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Based on the evidence and testimony available during the hearing, the department has established that Claimant received a [REDACTED] SDA overissuance, which the department is required to recoup.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department established that Claimant received a [REDACTED] SDA overissuance.

The department's recoupment of overissued SDA benefits is AFFIRMED.

It is SO ORDERED.

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

Date Signed: \_\_7/8/11\_\_\_\_\_

Date Mailed: \_\_7/8/11\_\_\_\_\_

**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 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.

VLA/ds

