

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

IN THE MATTER OF:



Reg. No: 201136599
Issue No: 4070
Case No: [REDACTED]
Hearing Date: August 10, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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. After due notice, a telephone hearing was held on August 10, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly cancelled Claimant's State Supplemental Payments (SSP)?

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 receiving State Supplemental Payments (SSP) prior to this hearing.
2. On May 24, 2011, the department mailed Claimant a Notice of State SSI Payment Change (DHS 430), informing the claimant that his quarterly State SSI payment had been canceled because the Social Security Administration notified the department that claimant had not received a regular first of the month SSI check for three months. (Department Exhibit 1A-1B).
3. Claimant submitted a hearing request on June 1, 2011 protesting the cancellation of his State Supplemental Payment.

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. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The State Supplementary Security Income program was established pursuant to Title XVI of the Social Security Act in 42 USC 1381, *et seq.*, and implemented by the provisions of Title 20 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the State SSI program pursuant to 2002 PA 529, MCL 400.10, *et seq.*, and by agreement between the State of Michigan and the United States Secretary of Health and Human Services (Secretary). Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Department policy states:

SSI BENEFITS

Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. It is a federal program administered by the Social Security Administration (SSA). States are allowed the option to supplement the federal benefit with state funds. In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with State funds. The amount of the state benefit varies by living arrangement. BEM, Item 660, p. 1.

Payments are made for only those months the recipient received a regular monthly federal benefit. SSPs are NOT issued for retroactive or supplemental federal benefits. BEM, Item 660, p. 1.

In this case, the claimant supplied evidence that shows that his monthly SSI payment has not ceased (see Claimant's Exhibit B). The aforementioned letter that the claimant supplied from the Social Security Administration states "Mr. Hallmark has been receiving SSI payments since 9/09 without any interruption. His benefit amount has fluctuated; however, it has not stopped." (Claimant's Exhibit B). Furthermore, the claimant supplied evidence showing that his SSI payment did fluctuate because he had received an over issuance and the Social Security Administration were attempting to recoup the funds inadvertently provided to the claimant (see Claimant's Exhibit D1-D2). The payments the claimant received during this recoupment period are not supplemental or retroactive benefits.

Department policy indicates that clients will receive SSP for those months that the clients receive a regular monthly benefit. The documentation provided by the claimant shows that there was not a period of three months where he did not receive an SSI payment. Furthermore, the payments that the claimant did receive were not supplemental or retroactive payments, and were therefore not excludable for purposes of SSP payments.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly cancelled Claimant's SSP benefits.

Accordingly, the department's actions are **REVERSED**. The department shall reinstate Claimant's State Supplemental Payments (SSP) and the department shall issue any supplement SSP that Claimant is otherwise eligible to receive.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 29, 2011

Date Mailed: August 30, 2011

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.

CSS/cr

cc:

