

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

IN THE MATTER OF:



Reg. No: 201147344
Issue No: 4003
Case No: [REDACTED]
Hearing Date: September 21, 2011
Calhoun 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 September 21, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly terminated the claimant's State Disability Assistance (SDA) case for failure to pursue other potential resources?

FINDINGS OF FACT

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

1. The claimant applied for SDA and her case was opened June 27, 2011. (Department Hearing Summary).
2. The claimant is an SSI recipient, but her benefits have been suspended from June, 2011 through November 2011.
3. The claimant has filed an appeal regarding the suspension of her SSI benefits.
4. Based on the suspension of the claimant's SSI benefits, the department closed the claimant's SDA benefits and issued a notice of case action (DHS 1605) on July 22, 2011, informing the claimant that her SDA benefits would be closed as of September 1, 2011. (Department Exhibit 1).
5. The claimant filed a hearing request July 28, 2011.

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 Disability Assistance (SDA) program which provides financial assistance for disabled persons is 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 Program Reference Manual (PRM).

Department policy states that in order to qualify for SDA benefits, an individual is required to apply for any other benefits which they may be entitled to and to take action to secure the entire potential amount of those benefits. Department policy reads as follows:

FIP, SDA, AMP and MA Only Except BEM 125

Clients must apply for benefits for which they may be eligible. This includes taking action to make the entire benefit amount available to the group. Any action by the client or other group members to restrict the amount of the benefit made available to the group causes ineligibility.

FIP, SDA and AMP Only

Refusal of a program group member to pursue a potential benefit results in group ineligibility.

State-Funded FIP, SDA Only

State-funded FIP/SDA clients receiving disability-related MA must apply for SSI as a potential resource. Refusal to pursue a potential resource results in group ineligibility. BEM 270.

In the case at hand, the claimant's SSI benefits were suspended for the period of June, 2011 through November, 2011. At the hearing, the department representative testified that she contacted the Social Security Administration in relation to the

suspension of the claimant's SSI benefits. She stated that she was informed that the claimant's benefits were suspended due to a "double check negotiation" and that this was a form of fraud. The department representative argued that if the claimant had committed fraud and as a result of said fraud had lost other available benefits, the claimant would be precluded from receiving SDA benefits under the above-cited section of BEM 270. This Administrative Law Judge does agree with the department's assertion that in such a case a claimant's actions would restrict the amount of benefits available to the claimant and therefore cause ineligibility.

However, in the case at hand, there had simply not been enough evidence presented to support a finding that the claimant intentionally committed fraud. At the hearing, the claimant produced a letter from the Social Security Administration which was read into the record. This letter stated that the claimant's SSI benefits were being suspended due to an overpayment. The claimant further testified that she was appealing the cut off and was currently awaiting a hearing. The department did not produce any documentation from the Social Security Administration stating that the claimant had committed fraud, and the only indication of such comes from the testimony of the department representative as to a conversation that was had with an unidentified worker from the SSA. Said testimony is clearly hearsay, and as such, this Administrative Law Judge will not credit it absent any supporting documentation.

Therefore, based on the totality of the evidence of record, this Administrative law Judge finds that the department improperly terminated the claimant's SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly terminated the claimant's SDA benefits.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that if the claimant is otherwise eligible, the department shall reinstate the claimant's SDA benefits and if applicable, provide the claimant with any past due benefits due an owing that she is otherwise eligible to receive.

/s/

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

Date Signed: October 11, 2011
Date Mailed: October 12, 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.

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