

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201226144
Issue No: 4003
Case No: [REDACTED]
Hearing Date: February 23, 2012
Grand Traverse 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 February 23, 2012. 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 was a recipient of State Disability Assistance (SDA).
2. On November 3, 2011, the department requested that the claimant ask for an Appeals Council review of his SSI determination and provide proof of such request to the department. (Department Exhibits 1-3, 7).
3. The claimant did not provide the department with verification that he requested an Appeals Council review of his SSI determination.
4. Because the claimant did not provide verification that he requested an Appeals Council review, the department sent the claimant a notice of case action (DHS 1605) on November 17, 2011 stating that his SDA benefits would be closing as of December 1, 2011. (Department Exhibits 4-5).
5. The claimant filed a hearing request December 14, 2011, protesting the termination of his SDA benefits.

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 was requested to request an Appeals Council review or required to request and attend a SSI hearing and provide proof to the department such request(s) was made. The claimant was sent notice of this request on

November 3, 2011 with a due date for the verification of November 14, 2011. The claimant's SSI application was denied on March 24, 2011. When a claimant's SSI/RSDI application is denied, that individual has 60 days from the date of denial to request a hearing and conversely, 60 days from the date of a unfavorable hearing decision to request an Appeals Council review. In this case, the claimant's 60 day time period for a hearing request/Appeals Council review had long since expired by the time the department made their request. The department's request was therefore impossible to comply with because the claimant was outside his 60 day time limit for filing an appeal. The department could have requested that the claimant submit a new application, but it was impossible for him to request an appeal of the decision handed down in March. Therefore, the department improperly closed the claimant's SDA case for failure to submit the requested verification of appeals request because it was impossible for the claimant to make such a request.

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 the department shall re-determine the claimant's eligibility for SDA benefits back to the date of negative action. If the claimant is determined to be otherwise eligible, the department shall reinstate benefits and issue any past due benefits due and owing that the claimant is otherwise eligible to receive.

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

Date Signed: March 2, 2012

Date Mailed: March 5, 2012

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.

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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/las

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