

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201266763
Issue No.: 4070
Case No.: [REDACTED]
Hearing Date: March 11, 2013
County: Wayne (#31)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday March 11, 2013. Participants on behalf of Claimant included [REDACTED] (Client Advocate) and Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payment Worker) and [REDACTED] (Assistance Payment Worker).

ISSUE

Whether the Department properly cancelled Claimant's quarterly State Supplement Payment (SSP) benefits effective August 23, 2010; and whether Claimant was entitled to retroactive SSP benefits?

FINDINGS OF FACT

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

1. The Claimant received State Supplement Payments (SSP) as a Social Security Income (SSI) recipient.
2. In August 2010, the Department sent Claimant notification that his SSP payments would be cancelled effective 8/23/2010 because he did not receive a regular first of the month SSI check for three months as required. (Exhibit 3)

3. In March 2012, the Claimant notified the Department that his employment ended in 2010 and that he was not receiving the quarterly SSP benefits.
4. On June 6, 2012, the Department requested that Claimant submit verification of employment ending due by July 6, 2012, which he did.
5. The Department reinstated Claimant's SSP payments effective August 1, 2012. No supplemental SSP benefits were issued for prior periods.
6. The Department received Claimant's written hearing request on July 23, 2012 disputing that he did not receive retroactive SSP benefits

CONCLUSIONS OF LAW

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

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. BEM 660 (April 2012), p. 1. The amount of the state benefit varies by living arrangements. The Department (DHS) issues the (SSP) to SSI recipients living in independent living and the household of another. (Living in the household of another person and receiving partial or total support and maintenance in kind from that person). BEM 660, p. 1.

SSP Payments are made for only those months the recipient received a regular first of the month federal benefit. SSP is not issued for retroactive or supplemental federal benefits. The benefits are issued quarterly the last month of each quarter. The Department is required to send a Notice of State SSI Payment Change form (DHS-40) to each SSI recipient whose current quarterly State SSI Payment is less than the previous quarterly State SSI Payment. BEM 600, p. 2. The recipient is referred to the SSI hot line for questions concerning any benefit reduction. If the recipient wants a hearing on the issue the recipient is referred to the Department's hearing coordinator. BEM 660, p. 2. A client has 90 days from a written notice of case action to request a hearing. BAM 600 (July 2012), p. 4. Here, the Claimant did not request a hearing regarding the cancellation of the SSP payments effective August 23, 2010 within 90 days of the case action. Therefore, the undersigned lacks jurisdiction to address the issue of whether his SSP benefits were properly cancelled.

The Claimant's employment from June 17, 2008 thru August 26, 2010 affected his SSI payment eligibility. He could not recall whether he received the Notice of Change regarding the cancellation of the SSP payment. According to Claimant's representative, life circumstances were unstable for Claimant from August 2010 thru March 2012. As a

result he did not realize he was not receiving the quarterly SSP payments after his employment ended in 2010. It was not until around March 2012 that it was brought to his attention at which time he notified the Department that he stopped working but was still not receiving the SSP payment. The Department sent a verification checklist to the Claimant in June 2012 requesting that he return verification of employment ending by July 6, 2012, which he did. Notably, the requirement to be eligible for SSP payments is that a client receives three months of regular monthly SSI benefits. Such information is obtained by the Department from the SOLQ SSI data page.

The Department reinstated Claimant's SSP payments effective as of August 1, 2012. The Department worker testified that the SSP payment reinstatement was not processed until after Claimant returned the verification of employment ending on July 6, 2012. No supplement benefits were issued for any missed SSP payments from August 2010 thru July 2012. The Department is required to act on any reported changes within 15 days of becoming aware of the change BAM 220 (July 2012), p. 5. Here, the Department was notified of Claimant's request for SSP benefits and the change in SSI eligibility in March 2012. The verification of employment ending in 2010 was not a necessary verification to determine Claimant's eligibility for SSP payments because eligibility is based on the receipt of regular SSI benefits.

Accordingly, the Department established it acted in accordance with policy when it did not issue a supplement for lost SSP payments from August 2010 thru March 2012; but did not act in accordance with policy when it did not act upon Claimant's request for SSP benefits until July 2012.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with policy in part in regards to the processing of Claimant's SSP benefits in July 2012; but did act properly when it did not issue a supplement for lost SSP benefits from August 2010 thru March 2012.

Accordingly, the Department's action is hereby, Modified:

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall process the Claimant's request for SSP benefits from March 2012 and supplement for lost SSP benefits (if any) that the Claimant was otherwise eligible and qualified to receive as of March 2012 in accordance with Department policy.

M. Howie

MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/20/2013

Date Mailed: 3/20/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

