

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: [REDACTED]
Issue No.: 4031
Case No.: [REDACTED]
Hearing Date: February 19, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 held on February 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] Galdys, law clerk. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] FIM and [REDACTED]. All appearances were entered without objections.

ISSUE

Did the Department of Human Services (DHS) properly:

1. Apply the correct standard at review?
2. Properly close claimant's case despite claimant having filed a timely hearing request?

FINDINGS OF FACT

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

1. At all relevant times herein, claimant was a recipient of SDA and a beneficiary of the program with the DHS.
2. On March 8, 2012, MRT approved claimant's SDA requesting an August 2012 review. (Exhibit 208)

3. In May 2012, the local office indicated to MRT that claimant had a new application dated March 29, 2012 for SDA. MRT approved the SDA On May 17, 2012. Review was requested for August 2012. (Exhibit 149)
4. In September, 2012, the local office indicated to MRT that claimant's SDA case was up for a medical review on August 1, 2012. MRT failed to apply the review standard and instead denied claimant on the basis of a new SDA application. (Exhibit 9)
5. On October 11, 2012, the DHS issued a Notice of Case Action to claimant informing claimant that her SDA will close. The notice indicated that if claimant filed a timely hearing request within ten days the department will reinstate the action. The actual notice indicates that claimant had until October 22, 2012 to request a timely hearing. Claimant requested a timely hearing on October 19, 2012. The department failed to reinstate claimant's case and closed her SDA benefits.
6. On January 7, 2013, SHRT denied claimant SDA on the basis of a new application and failed to apply the review standard.
7. Neither MRT nor SHRT applied the correct review standard as required under federal law and state policy.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

Federal law is quite specific with regards to the type of standards and assessments which must be done at review. These considerations and requirements are found at 20 CFR 416.988 *et al.*

As noted in the Findings of Fact, neither MRT nor SHRT applied the correct review standard.

The purview of an Administrative Law Judge is to review the department's actions and to make a determination if those actions are correct under policy and procedure and not contrary to law. In this case, the department failed to carry out its duty in assessing claimant's SDA case as a review as required under federal and state law and thus, the department's denial based upon a new application is reversed.

The department is ORDERED to resend this case back to MRT indicating to MRT that this is a review case and not a new application.

It is further ORDERED that the department failed to reinstate the case as claimant filed a timely hearing request. Even the department's own hearing notice indicated that claimant had until October 22, 2012 to file a hearing request and have her benefits continued. Claimant did in fact file on October 19, 2012, but the department failed to continue the benefits. The department is ORDERED to immediately reinstate claimant's SDA, if not already done, and issue any supplemental benefits. Claimant is entitled to have those benefits continue until MRT makes its determination. At that point, if MRT denies, claimant shall have another right to a hearing which claimant must file if she desires to have another hearing.

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 act properly when . did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. Immediately reinstate claimant's SDA from the date of closure, issue any supplemental benefits, and keep the case continuing as normally would under general policy and procedure with regards to a medical review. It is noted that this is a medical review and not a standard benefit redetermination case.
2. The department is ORDERED to return the entire medical file to the MRT and indicate to MRT that this case is a review and not a new application.



Janice G. Spodarek
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 26, 2013

Date Mailed: February 26, 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

JGS/db

cc:

