

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

IN THE MATTER OF:



Reg. No.: 201333753
Issue No.: 4003
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Genesee (02)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 August 22, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (State Disability Assistance Worker).

ISSUE

Did the Department properly deny Claimant's application for State Disability Assistance (SDA)?

FINDINGS OF FACT

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

1. Claimant applied for benefits for State Disability Assistance (SDA).
2. On February 21, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application due to failure to attend a medical appointment.
3. On February 27, 2013, Claimant filed a hearing request, protesting the denial of the application.

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 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, Rule 400.3151 through Rule 400.3180.

A person meets the disability or blindness factor for a month if he (or she) is determined disabled or blind for the month being tested. BEM 260. The client is responsible for providing evidence needed to prove disability or blindness. BEM 260. However, the [department worker] must assist the customer when they need help to obtain it. BEM 260. Such help includes scheduling medical exam appointments or paying for medical evidence and medical transportation. BEM 260. See also BAM 815 and BAM 825.

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and [the department] should deny the application or close the case. BEM 260. It is not necessary to return the medical evidence to MRT for another decision in this instance. BEM 260.

Here, the Department contends that it mailed Claimant two Medical Appointment Confirmation Notices (DHS-800) on December 27, 2012. According to the DHS-800s, Claimant was to attend a medical appointment with Dr. [REDACTED] at [REDACTED], MI [REDACTED] on January 18, 2013 at 12:00p.m. and a second appointment with Dr. [REDACTED] at [REDACTED], Mi [REDACTED] on January 24, 2013 at 1:15p.m. The Department asserts that it denied Claimant's SDA application because Claimant failed to attend either of these two medical appointments. Claimant, on the other hand, does not deny that she missed both appointments, but she states that the address indicated on the DHS-800s belonged to her parents. Claimant contends that she did not receive the DHS-800s timely because her parents failed to give her the mail.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department utilized the residence and/or mailing

address Claimant provided. It is Claimant's duty to provide the Department with a reliable mailing address. The Department is not responsible for the fact that Claimant's address was less than reliable. Certainly, the Department cannot control whether Claimant's parents failed to timely and/or properly forward her mail.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied Claimant's application for SDA.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly. Accordingly, the Department's SDA **AFFIRMED** for the reasons stated above.

IT IS SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

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The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/ACA

cc:

