

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

IN THE MATTER OF:



Reg. No.: 2014-2488
Issue No.: 4003
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 29, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's State Disability Assistance (SDA) eligibility due to a failure to return a redetermination document.

The second issue is whether Claimant was entitled to continue receiving SDA benefits pending the outcome of the hearing.

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 was an ongoing SDA recipient.
2. On [REDACTED], DHS mailed Claimant a Redetermination (Exhibits 2-5).
3. The Redetermination noted an appointment date and return due date of [REDACTED].
4. Claimant failed to return the Redetermination or to attend the interview.

5. On [REDACTED] DHS mailed Claimant a Notice of Case Action (Exhibits 6-7) initiating termination of Claimant's SDA eligibility, effective [REDACTED]
6. On [REDACTED], Claimant requested a hearing to dispute the termination of SDA eligibility.
7. Claimant's Request for Hearing stated that he wished to continue receiving benefits pending the hearing outcome.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to discussing the substance of his claim, Claimant stated that he felt disadvantaged in proceeding without an attorney. Neither of Claimant's previously submitted documents, a Request for Hearing and a statement requesting an adjournment, noted that Claimant had an authorized hearing representative. Claimant was given the option of waiving his right to representation and proceeding with a hearing or attempting to reschedule the hearing; Claimant waived his right to representation.

Claimant requested a hearing to dispute a termination of SDA benefits. DHS provided testimony that two reasons caused the termination, a Claimant failure to return a Redetermination and/or a Claimant failure to return an Individual Plan for Employment. This decision will address the unreturned Redetermination.

After seeing the Redetermination, Claimant testified that he did not recall receiving it. DHS provided View History Correspondence (Exhibit 1) verifying that a Redetermination was centrally mailed to Claimant on [REDACTED]. "Central" mailing is understood to refer to a mailing by the DHS database. The computer-generated mailing tends to minimize the element of human error.

A Redetermination (Exhibits 2-5) was also presented. Claimant conceded that the form listed a mailing address which was accurate at the time of alleged mailing. Based on the presented evidence, it is found that DHS mailed Claimant a Redetermination.

Bridges generates a redetermination packet to the client three days prior to the negative action cutoff date in the month before the redetermination is due. BAM 210 (7/2013), p. 6. All individuals with a SDA Eligibility Determination Group (EDG) participation status of eligible or disqualified adult who are physically able must be interviewed and must sign

and date the DHS-1010. *Id.*, p. 4. If the redetermination packet is not logged in by the negative action, DHS is to cut-off date of the redetermination month, Bridges generates a DHS-1605, Notice of Case Action, and automatically closes the EDG. *Id.*, p. 10.

Claimant testified that he might have submitted a Redetermination to DHS. During the hearing, Claimant received an opportunity to search his case file. Claimant's check of his case file revealed that DHS possessed other documents that Claimant submitted, but no Redetermination. It is found that Claimant failed to submit a Redetermination to DHS. Accordingly, it is found that DHS properly initiated a termination of Claimant's SDA eligibility.

Claimant presented some testimony that he made attempts to comply with the unreturned Redetermination following the mailing of the Notice of Case Action. Claimant's testimony is not particularly relevant in determining whether DHS properly initiated termination of Claimant's SDA eligibility. The testimony is relevant concerning procedural safeguards pending the hearing.

A timely hearing request is a request received anywhere in the department within 11 days of the effective date of a negative action. BAM 600 (7/2013), p. 22. When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. *Id.* While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. *Id.* Upon receipt of a timely hearing request, DHS is to reinstate program benefits to the former level for a hearing request filed because of a negative action. *Id.*

DHS initiated Claimant's SDA eligibility on [REDACTED]. Claimant requested a hearing on 9/30/13. Claimant's Request for Hearing stated that [REDACTED] was the last date that Claimant could request continuing receipt of benefits pending the hearing outcome. DHS failed to continue issuing SDA benefits pending the hearing outcome. The DHS failure to do so is reversible error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly initiated termination of Claimant's SDA eligibility, effective 10/2013. The actions taken by DHS are **PARTIALLY AFFIRMED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to issue SDA benefits based on Claimant's Request for Hearing. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's SDA eligibility from [REDACTED] through [REDACTED], subject to the finding that Claimant submitted a timely hearing request; and
- (2) initiate a supplement of benefits improperly not issued.

The actions taken by DHS are **PARTIALLY REVERSED**.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/18/2014

Date Mailed: 2/18/2014

NOTICE OF APPEAL: 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.

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).

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.

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

CG/hw

cc:

