

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

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Reg. No.: 2014-27332
Issue No(s): 2000; 4001
Case No.: ██████████
Hearing Date: October 6, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 October 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████
██████████ Medical Contact Worker/Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's State Disability Assistance (SDA) program benefits effective February 1, 2014?

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 recipient of SDA benefits. See Exhibit 1, pp. 12-23.
2. On December 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her SDA benefits would close effective February 1, 2014, due to her Social Security Administration (SSA) Appeals Council ruling. See Exhibit 1, p. 10. The notice also stated that Claimant's SDA benefits closed due to her failure to comply with the verification requirements. See Exhibit 1, p. 11.
3. On February 7, 2014, Claimant filed a hearing request, protesting her Medical Assistance (MA) closure and SDA closure. See Exhibit 1, pp. 2-5.

4. On March 19, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing scheduling Claimant for a hearing on April 3, 2014.
5. On March 31, 2014, Claimant submitted an adjournment request.
6. On April 3, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Granting Adjournment.
7. On September 23, 2014, the MAHS sent Claimant a Notice of Hearing, which rescheduled Claimant's hearing for October 6, 2014.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

MA benefits

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department

of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

On November 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective December 1, 2013, ongoing. See Exhibit 1, pp. 7-9. On February 7, 2014, Claimant filed a hearing request, protesting her MA closure. See Exhibit 1, pp. 2-5. However, Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. See BAM 600, p. 5.

SDA benefits

In this case, Claimant was an ongoing recipient of SDA benefits. See Exhibit 1, pp. 12-23. On December 20, 2013, the Department sent Claimant a Notice of Case Action notifying her that her SDA benefits would close effective February 1, 2014, due to her SSA Appeals Council ruling. See Exhibit 1, p. 10. The notice also stated that Claimant's SDA benefits closed due to her failure to comply with the verification requirements. See Exhibit 1, p. 11.

At the hearing, the Department testified that Claimant had an MA/SDA review due on October 1, 2012. As part of the evidence packet, the Department provided Claimant's Medical-Social Eligibility Certification form (DHS-49-A), which indicated a medical review date of October 1, 2012. See Exhibit 1, p. 25. A review of this form indicated that the Medical Review Team (MRT) stated under Section 1 – Decision Deferred that the appeals council denied the Claimant and if whether the case should be closed. See Exhibit 1, p. 25. Moreover, the MRT notated if this was a new application, even though it showed a review date of October 1, 2012. See Exhibit 1, p. 25. Finally, it also appears that Claimant's medical review was deferred (See Exhibit 1, p. 24 – Deferral Monitor) as the DHS-49-A was completed on October 31, 2013, which is a year after the review date. See Exhibit 1, p. 25.

Also, the evidence packet included additional medical packet information completed by the Claimant and/or her physician (i.e., Medical – Social Questionnaire or Medical Examination Report). See Exhibit 1, pp. 33-43. All of the forms were generated and/or completed in October 2013. See Exhibit 1, pp. 33-43.

Nevertheless, the Department argued that (per BEM 271) Claimant's disability factor continues for SDA until the next scheduled medical review, which was October 1, 2012. The Department presented Claimant's Notice of Appeals Council Action dated June 6, 2013, which stated it denied her request for review. See Exhibit 1, pp. 27-30.

During the hearing, Claimant argued that she has complied with the Department when it requested verifications. See Exhibit 1, pp. 3-5. It appeared that the Department requested medical packet information and/or redetermination documents in October 2013. Claimant testified that she complied with the necessary requests and submitted the documents on two different occasions (on or around October 2013 and January 2014).

Furthermore, Claimant acknowledged that the SSA appeals council denied her request. However, Claimant testified that she reapplied for disability and her application was currently pending with SSA. Claimant testified that she provided an SSA letter dated January 23, 2014, to the Department, which showed her application was pending. See Exhibit A, p. 1. Claimant testified she provided the SSA letter with other documentation at the local DHS office on or around January 23, 2014 and signed the logbook. During the hearing, the Department obtained the logbook; however, no submission was discovered.

For SDA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 5. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

Regarding a request for an SSA appeals council review, if the appeals council decision is a denial, the decision is now binding on the MA case. BEM 271 (July 2013), p. 10. For clients receiving MA, SSA's determination that disability or blindness does not exist for Supplemental Security Income (SSI) is final and the MA case must be closed if also other factors are met in BEM 271. BEM 271, p. 10.

For the SDA program, SSA's final determination is not binding on state programs (for example, SDA). BEM 271, p. 10. The MRT's determination that the client meets the disability factor continues for SDA until the next scheduled medical review. BEM 271, p. 10.

Based on the foregoing information and evidence, the Department improperly closed Claimant's SDA case effective February 1, 2014.

First, the Department argued that Claimant's SDA benefits closed per the SSA appeals council ruling and cited BEM 271 as the policy guidance. However, BEM 271 indicates that the appeals council ruling is binding on the MA benefits and not the SDA program benefits. See BEM 271, p. 10. In fact, BEM 271 states the MRT determination that the client meets the disability factor continues for SDA until the next scheduled medical review. BEM 271, p. 10. A review of the DHS-49-A form found that the MRT did not conduct a disability determination to see if Claimant meets the disability factor. See BEM 271, p. 10. It appears that the MRT showed Claimant possibly had a new application, even though there was a review date of October 1, 2012. See Exhibit 1, p.

25. Nevertheless, the Department improperly closed Claimant's SDA case and it will re-determine Claimant's SDA eligibility effective February 1, 2014.

Second, the Department appeared to indicate the main reason for the SDA denial was based on the appeals council denial. Nonetheless, the Notice of Case Action dated December 20, 2013, also indicated that Claimant's SDA benefits closed due her failure to comply with the verification requirements. See Exhibit 1, p. 11. The evidence packet included medical documentation that Claimant completed on or around October 2013. Thus, it is reasonable to infer that Claimant did submit medical verifications to the Department upon request. As such, the Department also improperly closed Claimant's SDA case effective February 1, 2014, based on a failure to comply with the verification requirements. See BAM 130, pp. 5-6.

DECISION AND ORDER

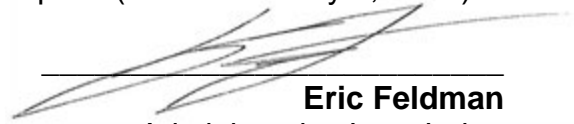
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it improperly closed Claimant's SDA benefits effective February 1, 2014.

Accordingly, the Department's SDA decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's SDA case as of February 1, 2014;
2. Determine Claimant's SDA eligibility effective February 1, 2014, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any SDA benefits she was eligible to receive but did not from February 1, 2014; and
4. Notify Claimant in writing of its SDA decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's MA hearing request (dated February 7, 2014) is **DISMISSED** for lack of jurisdiction.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 13, 2014
Date Mailed: October 13, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

EJF/cl

cc:

[REDACTED]
[REDACTED]
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