

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-003824
Issue No.: 7002
Case No.: [REDACTED]
Hearing Date: August 19, 2014
County: Oakland-District 2

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 August 19, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly reduce the Claimant's State Supplemental Security Income (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 is an ongoing State Supplemental Security Income (SSP) recipient.
2. On May 20, 2014, the Department notified the Claimant that it would reduce his State Supplemental Security Income (SSP) benefits.
3. On May 29, 2014, the Department received the Claimant's request for a hearing, protesting the reduction of his State Supplemental Security Income (SSP) benefits.

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 State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

The Claimant was an ongoing State Supplemental Security Income (SSP) recipient when the Department notified him on May 20, 2014, that it would reduce his benefits due to a change in his Supplemental Security Income (SSI) benefits from the Social Security Administration. The Department did not dispute that the Claimant receives a regular Supplemental Security Income (SSI) payment, but testified that an error in how his case has been coded caused his benefits to be reduced.

The production of evidence to support the department's position is clearly required under BAM 600 as well as general case law (see e.g., *Kar v Hogan*, 399 Mich 529; 251 NW2d 77 [1976]). In *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich167; 405 NW2d 88 (1987), the Michigan Supreme Court addressed the issue of burden of proof, stating in part:

The term "burden of proof" encompasses two separate meanings. [citation omitted.] One of these meanings is the burden of persuasion or the risk of nonpersuasion. The other is the risk of going forward or the risk of nonproduction. The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually on the party who has pleaded the existence of the fact, but..., the burden may shift to the adversary when the pleader has discharged [its] initial duty. The burden of producing evidence is a critical mechanism[.]

The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced.

McKinstry, 428 Mich at 93-94, quoting *McCormick*, *Evidence* (3d ed), Sec. 336, p. 946.

This Administrative Law Judge finds that the Department failed to provide a sufficient explanation of the SOLQ reports that were supplied to establish that the Claimant's eligibility for State Supplemental Security Income (SSP) benefits was properly determined.

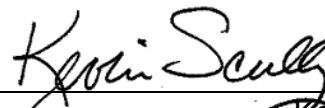
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced the Claimant's State Supplemental Security Income (SSI) benefits.

DECISION AND ORDER

Accordingly, the Department's 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. Initiate a determination of the Claimant's eligibility for State Supplemental Security Income (SSP) effective May 20, 2014.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/19/2014**

Date Mailed: **8/19/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

cc:

