

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

IN THE MATTER OF:

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Reg. No.: 2014-33364
Issue No(s): 2001; 4001
Case No.: ██████████
Hearing Date: April 24, 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 April 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's State Disability Assistance (SDA) program application effective January 1, 2014, ongoing?

Did the Department properly deny Claimant's Medical Assistance (MA) application effective December 1, 2013, ongoing?

FINDINGS OF FACT

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

1. In October 2013, Claimant applied for MA and SDA benefits.
2. On November 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA and SDA application was denied due to her failure to comply with the verification requirements. See Exhibit 1.
3. On or around December 2013, Claimant reapplied for MA and SDA benefits. See Exhibit 1.

4. On December 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her SDA application was denied effective January 1, 2014, ongoing, due to her requesting that her assistance be stopped. See Exhibit 1.
5. On December 23, 2013, the Notice of Case Action also notified Claimant that her MA application was denied effective December 1, 2013, ongoing, due to her requesting that her assistance be stopped. See Exhibit 1.
6. On March 19, 2014, Claimant filed a hearing request, protesting her MA and SDA denials. See Exhibit 1.

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 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.

☒ 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 MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matters

First, it was discovered during the hearing that Claimant applied again in February and/or March 2014 for MA/SDA benefits. The Department testified that the application is currently pending upon receipt of Claimant's verifications. As such, this hearing will not address Claimant's pending application for lack of jurisdiction. See BAM 600 (March 2014), pp. 4-6.

Second, in October 2013, Claimant applied for MA and SDA benefits. On November 26, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA and SDA application was denied due to her failure to comply with the verification requirements. See Exhibit 1. It was discovered during the hearing that the Notice of Case Action was sent to a different address; however, Claimant testified that this was the proper address at that time. However, Claimant testified that she never received this denial notice. Claimant testified that she notified the Department of a new mailing address in December 2013. See BAM 105 (October 2013), pp. 9-10.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the above information, it is found that Claimant failed to rebut the presumption of proper mailing. The evidence presented that the Department properly sent the Notice of Case Action (dated November 26, 2013) to Claimant's proper address at that time and in accordance with Department policy. As such, Claimant did not file a request for hearing to contest the Department's action until March 19, 2014. See Exhibit 1. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action (dated November 26, 2013) and is, therefore, dismissed for lack of jurisdiction. BAM 600, p. 6.

Third, both parties appeared to acknowledge a subsequent MA/SDA application in November 2013. However, the Notice of Case Action stated the MA application was denied effective December 1, 2013, ongoing, and the SDA application was denied effective January 1, 2014, ongoing. See Exhibit 1. Based on this information, the evidence indicates that the MA/SDA application was registered and processed in December 2013, rather than November 2013. See BAM 400 (July 2013), pp. 1-7 and BAM 110 (July 2013), p. 19. As such, this hearing decision will address the MA/SDA application occurring on or around December 2013.

MA/SDA application

On or around December 2013, Claimant reapplied for MA and SDA benefits. See Exhibit 1. On December 23, 2013, the Department sent Claimant a Notice of Case Action notifying her that her SDA application was denied effective January 1, 2014, ongoing, due to her requesting that her assistance be stopped. See Exhibit 1. Also, on December 23, 2013, the Notice of Case Action notified Claimant that her MA application was denied effective December 1, 2013, ongoing, due to her requesting that her assistance be stopped. See Exhibit 1.

At the hearing, the Department testified that Claimant provided written documentation and/or notified the Department that she would like to withdraw her MA/SDA application until her identify theft issue is resolved. As such, the Department sent a Notice of Case Action dated December 23, 2013, which denied her MA/SDA application based on her request that the assistance be stopped. See Exhibit 1. It should be noted that the written documentation could not be provided as evidence.

Claimant testified that she did not request that her assistance be stopped, but instead, she testified that she wanted her application to be hold until her identify theft issue was resolved. It should be noted that both parties appeared to indicate a Verification Checklist (VCL) was sent to the Claimant and was also a reason for the denial. However, the Notice of Case Action (dated December 23, 2013) did not find Claimant ineligible based on a failure to comply with the verification requirements nor did the evidence packet include a VCL. As such, the only denial reason present for the

MA/SDA application was based on Claimant's alleged request that the application be withdrawn.

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. BAM 110, p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

A client/AR may withdraw the application any time before it is disposed by the Department. BAM 110, p. 18. The Department documents the withdrawal request in the system. BAM 110, p. 18. To confirm it, the Department will automatically generate a notice of case action to the client. BAM 110, p. 18. The client may reapply any time. BAM 110, p. 18.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2013), p. 15. For MA and SDA applications, the Department certifies the program approval or denial of the application within 45 days. BAM 115, p. 15. However, there are exceptions to these benefits programs for processing times, which are described as follows: 60 days for SDA applicants; 90 days for MA categories in which disability is an eligibility factor. BAM 115, pp. 15-16. The SOP can be extended 60 days from the date of deferral by the Medical Review Team. BAM 115, p. 16.

Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. If approved, the Department sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130 (July 2013), p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SDA and MA application.

First, the Department testified that Claimant provided written documentation and/or notified the Department that she would like to withdraw her MA/SDA application until her identify theft issue is resolved. On the other hand, Claimant testified that she did not request that her assistance be stopped, but instead, she testified that she wanted her application to be held pending her identify theft issue. A client/AR may withdraw the application any time before it is disposed by the Department. BAM 110, p. 18. The Department documents the withdrawal request in the system. BAM 110, p. 18. The Department has failed to present evidence that it documented the withdrawal request in

the system. The Department did not provide any documentation that Claimant requested her application do be withdrawn other than the written denial notice. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it was unable to provide evidence of Claimant's application withdrawal. BAM 110, p. 18.

Second, there is also a discrepancy present in this case. The Department interpreted Claimant's statement and/or notice to mean that she withdrew her application. However, Claimant interpreted her written statement and/or notice to mean she wanted her application to be held and not withdrawn. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 7. As such, the Department should have sent Claimant a VCL requesting clarification on her statement to determine if, in fact, she wanted to withdraw her application. See BAM 130, p. 3.

Based on the foregoing reasons, the Department did not act in accordance with Department policy when it denied her SDA and MA application. See BAM 130, pp. 3 and 7 and BAM 110, p. 18. The Department will reprocess the MA and SDA application for December 2013.

DECISION AND ORDER

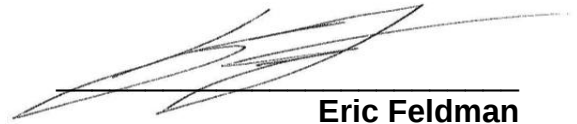
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it improperly denied Claimant's MA application effective December 1, 2013, ongoing, and SDA application effective January 1, 2014, ongoing. It is also noted that Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action dated November 26, 2013 and is, therefore, dismissed for lack of jurisdiction. BAM 600, p. 6

Accordingly, the Department's MA and 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. Initiate registration and processing of Claimant's MA and SDA application for December 2013;
2. Begin issuing supplements to Claimant for any MA benefits she was eligible to receive but did not from December 1, 2013, ongoing;

3. Begin issuing supplements to Claimant for any SDA benefits she was eligible to receive but did not from January 1, 2014, ongoing; and
4. Begin notifying Claimant in writing of its MA and SDA decision in accordance with Department policy.



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

Date Signed: May 6, 2014

Date Mailed: May 6, 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

2014-33364/EJF

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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