

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-016556
Issue No.: 7002
Agency Case No.: [REDACTED]
Hearing Date: November 04, 2015
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 4, 2015, from Lansing, Michigan. Attorney [REDACTED] ([REDACTED]) appeared at the hearing on behalf of Claimant. Claimant did not attend the hearing. Assistant Attorney General (AAG) [REDACTED] represented Department of Health and Human Services (Department). [REDACTED] (Hearing Facilitator) appeared as a witness on behalf of the Department.

ISSUE

Did the Department properly cancel Claimant's State Supplement SSI Payment (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. Claimant was active for Supplemental Security Income (SSI) and received State SSI payments. (Exhibit 1, pp. 3-5, 6-7).
2. On April 1, 2015, the Social Security Administration (SSA) failed to provide Claimant with a regular monthly SSI payment. (Exhibit 1, p. 5)
3. On August 18, 2015, the Department mailed Claimant a Notice of SSI Payment Change (DHS-430) which indicated that her State SSI Payment has been cancelled. The notice further indicated that the SSA indicated Claimant is no longer eligible for SSI and that the last State SSI Payment she will receive from the Department will be issued on September 15, 2015. (Exhibit 1, pp. 6).

4. On August 31, 2015, Claimant, by her attorney, requested a hearing to dispute the cancellation of her State SSI Payment. (Exhibit 1, p. 9).
5. On October 2, 2015, the Michigan Administrative Hearing System (MAHS) issued a Notice of Hearing to all interested parties which scheduled a telephone hearing for November 4, 2015.
6. The hearing took place on November 4, 2015.
7. During the hearing, Claimant's attorney requested the record be extended to allow Claimant to introduce additional documentation from the SSA.
8. On November 5, 2015, the Administrative Law Judge issued an Interim Order Extending the Record which extended the record for Claimant to provide additional documentation from the SSA until November 18, 2015.
9. Claimant failed to submit any documentation to the ALJ by the November 18, 2015 and the record was closed.

CONCLUSIONS OF LAW

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

Supplemental Security Income (SSI) is a cash benefit to needy persons who are aged (at least 65), blind or disabled. It is a federal program administered by the Social Security Administration (SSA). States are allowed the option to supplement the federal benefit with state funds. In Michigan SSI benefits include a basic federal benefit and an additional amount paid with state funds. The amount of the state benefit varies by living arrangement. BEM 660 (7-1-2013), p. 1.

The SSA issues the federal benefit to all SSI recipients. BEM 660, p. 1. The SSA also issues the state funded benefit for SSI recipients in the following living arrangements: (1) adult foster care which includes domiciliary care and personal care; (2) home for the aged; or (5) institution including a nursing home. BEM 660, p. 1. Initially, a lump sum check maybe issued for any retroactive benefits. BEM 660, p. 1. Thereafter, the SSA issues SSI benefits monthly, on the first of the month. BEM 660, p. 1.

The Department issues the State SSI Payment (SSP) to SSI recipients in the following living arrangements: (1) independent living; and (2) household of another (living in the household of another person and receiving partial or total support and maintenance in kind from that person.) BEM 660, p. 1. Payments are made for only those months the recipient received a regular monthly federal benefit. BEM 660, p. 1. SSPs are NOT issued for retroactive or supplemental federal benefits. SSP benefits are issued quarterly. These benefits are paid the last month of each quarter. BEM 660, p. 1.

BEM 660 also governs the procedure when the recipient wants to request a hearing. In that instance, the recipient is referred to the local office Hearings Coordinator. BEM 660, p. 3. The DHS-430, Notice of State SSI Payment Change, does all of the following: (1) gives recipients timely notice of any proposed benefit reduction; (2) notifies recipients of their hearing rights and the date by which a timely hearing request will preserve benefits at the current level pending the hearing decision; and (3) notifies recipients of the date they will receive their next (reduced) quarterly check. BEM 660, p. 3. According to BEM 660, recipients receiving a DHS-430 will receive their check with the case digit end 9's. BEM 660, p. 3.

When the client requests a hearing (usually a DHS-430) and the Department receives the request, policy provides the department worker do **all** of the following: (1) log the receipt of the hearing request on Bridges¹; (2) request an SOLQ; (3) introduce the SSI DATA page as evidence at the hearing to verify the action taken²; (4) prepare a Hearing Summary, DHS-3050; (5) represent the agency at the hearing; and (6) if the Hearing Decision reverses the action taken by the department, issue a supplemental payment. BEM 660, pp. 3-4.

Here, the Department argues that it properly reduced Claimant's quarterly State SSI Payment in accordance with policy based on the SSA's notification that Claimant did not receive a regular first of the month SSI payment. The Department relies upon an SOLQ that was provided into evidence to support its position. Claimant, on the other hand, does not dispute that her regular SSI payment ended, but suggested that the SSA may have erred.

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).

¹ A timely hearing request will delete the negative action and issue a warrant equal to the previous quarterly payment. BEM 660, p. 3.

² BEM 660 provides that the State SSI Payment Unit shall be contacted for assistance if the SOLQ fails to explain the action taken.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. BEM 660, at page 1, clearly provides that, "Payments are made for only those months the recipient received a regular monthly federal benefit." The record shows the Department followed the requirements set forth by BEM 660 when it mailed Claimant the notice that his state SSI payment amount would be reduced. The SOLQ and the documentation from the SSA show that Claimant did not receive a regular monthly SSI payment after April 1, 2015. (See Exhibit 1, p. 5) Claimant was afforded a reasonable opportunity to provide documentation from the SSA to show that the SOLQ was somehow incorrect or that some other error existed. However, Claimant failed to provide such evidence. Therefore, this Administrative Law Judge finds that the material, competent and substantial evidence on the whole record shows that Claimant's State SSI Payments were properly cancelled.

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 acted in accordance with Department policy when it cancelled Claimant's State SSI Payments.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: 11/20/2015

Date Mailed: 11/20/2015

CAP/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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

