

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

IN THE MATTER OF:



MAHS Reg. No.: 15-018221
Issue No.: 4002
Agency Case No.:
Hearing Date: December 14, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner'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 December 14, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by , specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) application due to Petitioner's failure to timely return requested documents.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On August 13, 2015, Petitioner applied for SDA benefits.
2. On August 28, 2015, MDHHS mailed Petitioner a Medical Determination Verification Checklist (VCL) requesting various items including an Authorization to Release Protected Health Information (DHS-1555) and proof of a Social Security Administration disability benefits application.
3. The VCL due date was September 8, 2015.
4. On September 9, 2015, MDHHS received various documents from Petitioner, including the second and third pages of a DHS-1555, but no verification of a SSA application for disability.

5. On September 21, 2015, MDHHS denied Petitioner's SDA application due to Petitioner's failure to return verification of a SSA application and the first page of a DHS-1555.
6. On September 28, 2015, Petitioner requested a hearing to dispute the denial of SDA benefits.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a denial of SDA benefits. MDHHS presented a Notice of Case Action (Exhibits 7-8) dated September 21, 2015. The notice stated that Petitioner's application was denied because Petitioner failed to return documentation necessary to complete a disability determination. MDHHS testimony and the Notice of Case Action specifically identified Petitioner's failure to return all pages of the DHS-1555 and proof that she applied for SSA benefits.

During the hearing, MDHHS contended that Petitioner's application was also properly denied because Petitioner's submission was after the VCL due date. It was not disputed that Petitioner's submission due date was September 8, 2015 and Petitioner did not return verifications to MDHHS until September 9, 2015.

[For all programs, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (7/2015), p. 3. [MDDHS must] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. [For MA benefits, MDDHS is] to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. *Id.*, p. 7.

MDHHS cannot deny an application solely because a client missed a VCL due date. MDHHS could have denied Petitioner's SDA application on September 9, 2015 (assuming Petitioner had not submitted documents by the time of day that MDHHS denied the application). As it happened, MDHHS denied Petitioner's application 12 days later on September 21, 2015. The contention that Petitioner post-VCL due date submission justified application denial was not a persuasive basis for denying Petitioner's application. MDHHS went on to contend that Petitioner's document submission was incomplete.

The client or authorized representative must sign the DHS-1555, Authorization to Release Protected Health Information, to request existing medical records. BAM 815 (July 2015), p. 4. **This form is mandatory.** *Id.*

It was not disputed that Petitioner only returned the second and third pages of the DHS-1555. MDHHS contended Petitioner's failure to return all three pages justified denial of Petitioner's SDA application. The analysis will examine each page of the DHS-155 to determine its importance to the SDA application process.

The first page of the DHS-1555 lists the different types of health information which may potentially be requested by MDHHS (e.g. medical records, medical opinions...). Each item has a check-box. Presumably, the purpose of each check-box is to inform the client which records MDHHS may be obtaining on the client's behalf. The second page of the DHS-1555 includes a line for clients to sign and date their name; the client's signature indicates consent to a request of the records listed on the first page. The third page of the DHS-1555 includes a signature line that is only applicable when a client revokes the authorization.

MDHHS obviously places great importance on the return of a DHS-1555 by emboldening in their policy that a DHS-1555 is a mandatory form. Though the form is mandatory, the first page of the DHS-1555 requires no information from a client. The form can be easily duplicated, as it requires nothing but an "X" next to the item being requested. The only page of the DHS-1555 whose return is mandatory is the client's signature and date because that is what authorizes the request of records. As noted above, Petitioner completed and returned that page (see Exhibit 5).

It is found that MDHHS improperly denied Petitioner's SDA application, in part, due to Petitioner's failure to return all pages of the DHS-1555. MDHHS lastly contended that the application denial was also justified because of Petitioner's failure to verify a pending SSA disability application.

[For medical determination applications, MDHHS is to] complete a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications [are] required: DHS-49-F, DHS-1555, DHS-3975, Reimbursement Authorization (for state-funded FIP/SDA only), and verification of SSA application/appeal. *Id.* Based on this policy, a SSA application/appeal is an appropriate verification to request.

Petitioner testified she submitted proof that she has a pending SSA application to MDHHS. MDHHS testimony denied receiving Petitioner's verification. Neither side presented supporting evidence for their testimony; thus, it is difficult to determine if Petitioner in fact submitted proof of her SSA application. It is known that MDHHS could have verified Petitioner's SSA application without making any request from Petitioner.

A Single Online Query (SOLQ) is an acceptable verification of a SSA application or appeal (see *Id.*, p. 8 and BEM 271). [A] SOLQ (State Online Query) reports point in time information on RSDI, Medicare, and SSI. BAM 801 (July 2015), p. 2. Worker inquiries to SSA are requested through Bridges. *Id.* The client must obtain required verification, but the local office must assist if they need and request help. BAM 130 (October 2014), p. 3.

MDHHS presented no evidence of attempting to verify Petitioner's SSA application status through Bridges. The attempt would have literally taken a few seconds to do so. Unfortunately, hearing testimony did not delve into whether Petitioner contacted MDHHS concerning verifications. Petitioner testimony indicated she had applied for SDA benefits in the past and was denied each time for failing to return all verifications. Thus, it is very possible that Petitioner made contacts with MDHHS concerning updates on whether all verifications were enough to process the application. Petitioner also testified she was in a homeless shelter during the time she applied for SDA benefits. It is also known that MDHHS was less than accommodating by needlessly requiring the first page of the DHS-1555 and for contending that Petitioner's failure to meet the VCL due date justified denial of the application. Presented evidence was sufficient to find that Petitioner made a request for assistance in obtaining a SSA application verification. Even if the reality is that Petitioner made no such request, MDHHS should have been more accommodating and attempted to verify Petitioner's SSA application through a SOLQ.

Based on the presented evidence, it is found that Petitioner's actions amount to a request for assistance in verifying a SSA application. It is further found that MDHHS failed to assist Petitioner by requesting an SOLQ. Accordingly, MDHHS improperly denied Petitioner's application, in part, due to Petitioner's failure to verify a SSA application.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's application for MA benefits. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's SDA application dated August 13, 2015; and
- (2) process Petitioner's SDA application subject to the following findings:
 - a. Petitioner requested assistance with obtaining verification of a pending SSA application;
 - b. MDHHS may not deny an application solely based on a client failure to submit documents on or before a VCL due date;
 - c. Petitioner returned all necessary pages of a DHS-1555.

The actions taken by MDHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/16/2015**
Date Mailed: **12/16/2015**
CG/tm

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:

