

**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.: 15-016823
Issue No.: 4001
Agency Case No.: [REDACTED]
Hearing Date: November 30, 2015
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 November 30, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by Elaine Cooper, Partnership. Accountability. Training. Hope. (PATH) caseworker; and [REDACTED], Regulation Agent from the Office of Inspector General (OIG).

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) program effective [REDACTED]?

FINDINGS OF FACT

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

1. Petitioner was an ongoing recipient of SDA benefits. See Exhibit A, pp. 11-13.
2. Petitioner and her husband signed a rental agreement for Address A that would commence from [REDACTED]. See Exhibit A, p. 14 (Address A and Address B are identified in the analysis below).
3. On [REDACTED], Petitioner and her husband were summoned in district court that day due to a rental unit eviction regarding Address A. See Exhibit A, p. 15.
4. The Department indicated that Petitioner resided with her husband, who receives unemployment compensation, at Address B, which makes her ineligible for SDA benefits.

5. Petitioner indicated that she does not reside with her husband.
6. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her SDA benefits were denied effective [REDACTED], ongoing, due to the group's countable income exceeding the limits for this program. See Exhibit A, pp. 5-10. The Notice of Case Action also indicated that Petitioner was approved for SDA benefits for the timeframe of [REDACTED], [REDACTED]. See Exhibit A, pp. 5-6.
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2-3.

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

As a preliminary matter, the undersigned needs to identify two addresses at issue in this case. The Department argues that Petitioner resides with her husband at his address, which will be referred to as "Address B." However, Petitioner argues that she did not reside with her husband and that she resides at her address, which will be referred to as "Address A."

SDA is a cash program for individuals who are not eligible for FIP and are disabled or the caretaker of a disabled person. BEM 214 (April 2014), p. 1. An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living together. BEM 214, p. 1.

The certified group (CG) means those persons in the EDG who meet all non-financial SDA eligibility factors. BEM 214, p. 2. Countable income and assets of CG members are always considered in determining SDA eligibility. BEM 214, p. 2. Living together means sharing a home except for temporary absences. BEM 214, p. 2 (see temporary absence).

The EDG consists of both: the individual and the individual's spouse who lives with the individual and does not receive FIP, Refugee Cash Assistance, or a refugee matching grant. BEM 214, p. 2. The Department determines the members of the SDA EDG based on information reported by the individual and entered in the system. BEM 214, p. 2.

The CG includes only the eligible members of the SDA EDG. BEM 214, p. 3. A spouse in the home may fail eligibility and be excluded from the CG but remains a mandatory EDG member. BEM 214, p. 3. A spouse who fails to meet a nonfinancial eligibility factor or is disqualified for any reason is excluded from the CG. BEM 214, p. 3. The Department determines the members of the SDA CG based on information reported by the individual and entered in the system. BEM 214, p. 3.

The certified group must be in financial need to receive benefits. BEM 515 (July 2013), p. 1. Need is determined to exist when budgetable income is less than the payment standard established by the department. BEM 515, p. 1. The SDA payment standard for an individual living in an independent living arrangement is \$200 and the independent living arrangement for individual and spouse is \$315. RFT 225 (December 2013), p. 1.

In this case, the Department argued that Petitioner resided with her husband, who began receiving unemployment income on [REDACTED], in the amount of \$638 bi-weekly, at Address B. See Exhibit A, p. 1 (Hearing Summary). However, Petitioner argued that she did not reside with her husband and that they had been separated since 2013. The Department further argued that because Petitioner resides with her husband, he is a certified group member whose income is considered in determining SDA eligibility. Therefore, the Department closed Petitioner's SDA benefits effective [REDACTED] because the husband's unemployment income exceeded the SDA standard. See BEM 515, p. 1; and RFT 225, p. 1.

Additionally, the Department presented evidence and/or testimony in an effort to support its argument that Petitioner resided with her husband.

First, the Department presented a rental agreement signed by both Petitioner and her husband at Address A that would commence from [REDACTED]. See Exhibit A, p. 14. Moreover, on [REDACTED], Petitioner and her husband were summoned in district court that day due to a rental unit eviction at Address A. See Exhibit A, p. 15. The Department argued that this shows that both Petitioner and her husband resided together. However, the undersigned is somewhat confused because the Department is arguing that Petitioner and her husband resided together at his address (Address B). But, this document shows that both resided at Address A.

Petitioner testified that before they signed the rental agreement she was homeless. Thus, Petitioner indicated that she did move in with her husband temporarily at Address B. Then, Petitioner testified that she did move to Address A and that they both did sign the rental agreement. However, Petitioner testified that she only had the husband sign the rental agreement because she needed his income to qualify for the lease. Petitioner also testified that the husband signed the lease because they were trying to fix their relationship, but to no avail. Petitioner testified that he never resided at Address A.

Second, the OIG agent testified that she ran Secretary of State (SOS), LexisNexis, and other system checks for both Petitioner and her husband and all of them showed that

both resided together at Address B. However, the Department failed to present any evidence of such documentation showing that both had the same address. In fact, during the hearing, Petitioner testified that she had her current driver's license that was issued on [REDACTED], which shows her address as Address A.

Third, the OIG agent testified that she did an on-site home visit at Petitioner's alleged Address A on [REDACTED]. The OIG agent testified that an individual claiming to be a son of the husband answered the door and stated that he lives at Address A and that Petitioner and her husband resided together at Address B. However, the Department failed to present any affidavit from this individual confirming his statement that Petitioner and her husband resided together at Address B. The OIG agent testified that she then visited Address B but no one was present at the time. However, the OIG agent testified she did locate a vehicle at Address B which she confirmed the vehicle plates were registered in the husband's name at Address B.

Petitioner testified that this young man was not related to her and he was visiting. Petitioner argued that the young man had no knowledge of her living situation.

Fourth, the Department went through several State Emergency Relief (SER) applications from on or around October 2014 to current. The Department testified that Petitioner listed in some of the applications that her address was address A or B. Again, the Department did not present any applications for the evidence record.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SDA benefits effective [REDACTED]. See BEM 214, pp. 1-3. The only evidence the Department presented in which Petitioner and her husband had similar addresses was the rental agreement and court document. See Exhibit A, pp. 14-15. However, Petitioner had a credible argument that she only had the husband sign the rental agreement because she needed his income to qualify for the lease. In fact, Petitioner supported her argument that she resided at Address A when she presented her current driver's license that showed Address A during the hearing. The undersigned is stating that the rental agreement and court document fails to show by a preponderance of evidence that Petitioner and her husband are living together. In fact, as stated above, the undersigned is somewhat confused because the Department is arguing that Petitioner and her husband resided together at his address (Address B). But, these documents show that both resided at Address A.

Additionally, the Department argued that its other system checks (SOS, LexisNexis, etc...) showed that both resided together at Address B. However, the Department failed to present any evidence of such documentation showing that both had the same address listed as Address B. Moreover, the OIG agent failed to get any affidavits from her on-site visit of Address A or Address B from the individual who allegedly stated Petitioner and her husband resided at Address B. Finally, a further review of the Department evidence shows that Petitioner's DHHS profile has her current residence at Address A and the husband's DHHS profile has his current residence at Address B.

See Exhibit A, pp. 18-22. In fact, the husband's unemployment compensation shows that his current residence is Address B. See Exhibit A, p. 26.

For the above stated reasons, the Department improperly considered the husband's income in determining Petitioner's SDA eligibility because the Department failed to satisfy its burden of showing that Petitioner and her husband are living together. See BEM 214, pp. 1-3. The Department will redetermine Petitioner's SDA benefits eligibility effective August 1, 2015, in accordance with Department policy. BEM 214, pp. 1-3; BEM 515, p. 1; and RFT 225, p. 1.

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 denied/closed Petitioner's SDA benefits effective [REDACTED].

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. Redetermine Petitioner's SDA eligibility as of [REDACTED];
2. Issue supplements to Petitioner for any SDA benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/2/2015**

Date Mailed: **12/2/2015**

EF / hw

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:

