

**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.: 15-021430
Issue No.: 4002
Agency Case No.: [REDACTED]
Hearing Date: February 18, 2016
County: Genesee-District 6

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, telephone hearing was held on February 18, 2016, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her daughter [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for State Disability Assistance (SDA) 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. On June 17, 2015, the Department received the Claimant's application for State Disability Assistance (SDA) benefits.
2. On August 21, 2015, the Department reviewed the Claimant's records to make a determination of disability.
3. On August 27, 2015, the Department deferred making a disability determination for an internist examination.
4. On September 11, 2015, the Department sent the Claimant a Medical Appointment Confirmation Notice (DHS-800) instructing her to attend a required medical examination on September 29, 2015.

5. On September 14, 2015, the Department received a Change Report (DHS-2240) where the Claimant reported a change of residence along with verification documents.
6. On November 1, 2015, the Department notified the Claimant that it had denied her State Disability Assistance (SDA) application.
7. On November 5, 2015, the Department received the Claimant's request for a hearing protesting the denial of her State Disability Assistance (SDA) application.

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.

The client is responsible for providing evidence needed to prove disability or blindness. However, assist the customer when they request or need help to obtain it. Such help includes the following:

- Scheduling medical exam appointments
- Paying for medical evidence and medical transportation

A client who refuses or fails to submit to an exam necessary to determine disability or blindness cannot be determined disabled or blind and you should deny the application or close the case. It is not necessary to return the medical evidence to DDS for another decision in this instance. Department of Human Services Bridges Eligibility Manual (BEM) 260 (July 1, 2015), p 4.

Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. Department of Health and Human Services Bridges Administrative Manual (BAM) 130 (July 1, 2015), p 7.

On June 17, 2015, the Department received the Claimant's SDA application. On August 21, 2015, the Claimant's case was submitted to the Disability Determination Service. On August 27, 2015, a determination of disability was deferred pending an

internist examination. On September 11, 2015, the Department sent the Claimant a Medical Appointment Confirmation Notice (DHS-800) instructing her to attend a required medical examination on September 29, 2015. The Claimant failed to attend this examination appointment and on November 1, 2015, the Department notified the Claimant that it had denied her SDA application.

The medical appointment notice sent on September 11, 2015, was mailed to the address listed on her application for benefits. On September 14, 2015, the Department received the Claimant's change report that she had moved to another address along with verification of that move. The Claimant testified that she did not receive the medical appointment notice because she was not living at that address. On November 1, 2015, the Department sent notice that the application had been denied to the address on her application.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

On September 11, 2015, the Department sent an appointment notice to the Claimant that was addressed to her most current mailing address of record at that time. The Claimant had moved before that notice was sent and the Department received a change report from the Claimant on September 14, 2015.

While the Department does not deny receiving the change report on September 14, 2015, it is not clear when the Department actually processed this information. On November 1, 2015, the Department sent the Claimant a Notice of Case Action at the address from her application instead of the new address.

The Claimant had a duty to attend the September 29, 2015, medical examination appointment. No evidence was presented on the record that the Claimant refused to attend this appointment but there is also no evidence that the Department provided her with any assistance to obtain the evidence necessary to establish disability as required by BEM 260.

This Administrative Law Judge finds that the Claimant has rebutted the presumption that she received the DHS-800 form that was mailed on September 11, 2015. This Administrative Law Judge finds that the Claimant made a reasonable attempt to provide the Department with the information necessary to obtain a determination of disability with the forms and instructions she received from the Department. Even if the Claimant was familiar with the Department's processes to establish disability, she had no reason to know that the [REDACTED] has requested additional information.


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 did not act in accordance with Department policy when it denied the Claimant's application for State Disability Assistance (SDA) 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. Reprocess the Claimant's June 17, 2015, application and initiate a determination of the Claimant's eligibility for State Disability Assistance (SDA).
2. Provide the Claimant with written notice describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **3/1/2016**

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 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:

