



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 6, 2016
MAHS Docket No.: 16-002601
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 18, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with his father, [REDACTED], and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Medical Contact Worker.

ISSUE

Did the Department properly deny Petitioner'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 or around October 29, 2015, Petitioner submitted an application for SDA cash assistance benefits. (Exhibit A)
2. On the application, Petitioner reported that he is not disabled. Petitioner reported that he is caring for a disabled person [REDACTED]. (Exhibit A)
3. On February 2, 2016, the Department sent Petitioner a Notice of Case Action advising him that effective November 16, 2015, ongoing, he was denied cash assistance benefits on the basis that he is not a dependent child, a

caretaker/relative of a child, not pregnant, not aged or disabled, not a refugee or does not have a qualifying relationship to other household members. (Exhibit B)

4. On February 16, 2016, Petitioner requested a hearing disputing the Department's actions.

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).

As a preliminary matter, it was initially unclear based on Petitioner's hearing request what issue or program was in dispute, as Petitioner made references to food assistance, retro Medicaid and cash assistance. However, after some discussion on the record, Petitioner clarified that the program in dispute and the issue for which he requested a hearing on was the denial of the SDA application submitted on October 29, 2015.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

To be eligible for FIP benefits both of the following must be true: the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker; and the group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996, or any other time limits in the FIP; see BEM 234. BEM 210 (January 2016), p. 1. A dependent child is an unemancipated child who lives with a caretaker and is one of the following: under age 18; or age 18 and a full-time high school student. See BEM 245 for definition of high school. BEM 210, p. 2.

SDA is a cash program for individuals who are not eligible for FIP. BEM 214 (April 2014), p. 1. To receive SDA benefits, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2015), p.1. There is no time limit on receipt of SDA benefits. A caretaker of a disabled person may receive SDA provided that the

assistance of the caretaker is medically necessary for at least 90 days and the caretaker and the disabled person live together. Assistance means personal care services and includes meal preparation, laundry, food shopping, errands, light cleaning, non-nursing personal care (bathing, dressing, etc.) and assistance with medication. The disabled person does not have to be related to the caretaker or receive SDA. Additionally, the Department will verify the disability or the need for a caretaker at application, redetermination, when required by DDS or as needed when the client's circumstances change. BEM 261, p. 4. The Department can use a completed DHS-54A, Medical Needs form or statement by a M.D. or D.O. that the client is needed in the home to provide personal care to the disabled household member for at least 90 days as verification for clients asserting eligibility for SDA on the basis of caring for a disabled person. The statement must include the diagnosis and the length of time care is needed. BEM 261, p. 4.

In this case, it was established that Petitioner applied for SDA on the basis that he is the caretaker of his disabled father, [REDACTED] who receives monthly SSI benefits. (Exhibit A). The Department acknowledged that the SDA application submitted by Petitioner on October 29, 2015, was denied in error and that the Notice of Case Action sent to Petitioner on February 2, 2016, was incorrect. (Exhibit B). The Department testified through its hearing summary that the application will be reevaluated, as Petitioner is the caretaker of his disabled father, however, as of the hearing date, the Department had not yet reprocessed the application or notified Petitioner of his SDA eligibility. There was some testimony provided by the Department during the hearing that Petitioner may not be eligible for SDA as he may currently be active on his father's FIP case, however, the Department's testimony was not supported by any documentation during the hearing and the reason for the initial denial of the SDA application was unrelated to Petitioner's status as a possible active FIP recipient.

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 Petitioner's SDA application.

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. Register and process Petitioner's October 29, 2015, SDA application to determine his eligibility for SDA program benefits from the application date, ongoing;
2. Issue supplements to Petitioner for SDA benefits that he was entitled to receive, but did not, if any from the October 29, 2015, application date, ongoing, in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.



ZB/tlf

Zainab Baydoun

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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