



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 20, 2016
MAHS Docket No.: 16-004975
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on May 26, 2016, from Lansing, Michigan. The Petitioner represented himself. The Department was represented by [REDACTED] (Family Independence Manager).

ISSUE

Did the Department of Health and Human Services (Department) properly close the Petitioner's 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. The Petitioner was an ongoing State Disability Assistance (SDA) recipient.
2. On January 16, 2014, the Medical Review Team determined that the Petitioner was not disabled for purposes of Medical Assistance (MA) and State Disability Assistance (SDA) eligibility. Exhibit C, p 122.
3. On May 2, 2014, the State Hearing Review Team (SHRT) determined that the Petitioner was not disabled for purposes of Medical Assistance (MA) and State Disability Assistance (SDA) eligibility. Exhibit A, p 169.
4. The Petitioner's State Disability Assistance (SDA) benefits were not closed until April 1, 2015. Exhibit B.

5. On December 9, 2014, the Department received the Petitioner's Medical Social Questionnaire (DHS-49-F) that indicates he was claiming disability due to a herniated disc, bi-polar disorder, hypertension, high cholesterol, chronic pain, and depression. Exhibit A, p 179.
6. On December 17, 2015, the Department received the Petitioner's Medical Social Questionnaire Update (DHS-49-FR) that indicated he was claiming worsening physical conditions due to complications from diabetes. Exhibit C, p 283.
7. On February 26, 2016, the Medical Review Team (MRT) issued a DHS-49-C Deferral Monitor because it had no documentation of a reversal of its prior finding of non-disability. Exhibit C, p 288.
8. On March 3, 2016, the Department notified the Petitioner that he was no longer eligible for State Disability Assistance (SDA) benefits effective April 1, 2016. Exhibit B.
9. On March 28, 2016, the Department received a Form SSA-2458 dated March 25, 2016, from the Social Security Administration, which indicates that the Petitioner has a pending appeal with the Appeals Council. Exhibit C, p 287.
10. On April 14, 2016, the Department received the Petitioner's request for a hearing protesting the closure of his State Disability Assistance (SDA) benefits.

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.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. A person is disabled for SDA purposes if he:

- Receives other specified disability-related benefits or services, or
- Resides in a qualified Special Living Arrangement (SLA) facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability, or
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Department of Health and Human Services Bridges Eligibility Manual (BEM) 261 (July 1, 2016), pp 1 – 2.

The Social Security Administration's (SSA) final determination that a client is not disabled and/or blind supersedes the Department's certification. Department of Health and Human Services Bridges Administrative Manual (BAM) 815 (January 1, 2016), p 2.

Clients who receive state-funded Family Independence Program (FIP) or SDA who meet potential eligibility for SSI or have a Disability Determination Service (DDS) decision that indicates they meet the criteria for Medical Assistance (MA) based on blindness or disability are required to pursue SSI. Department of Health and Human Services Bridges Eligibility Manual (BEM) 271 (January 1, 2016), p 1.

For clients receiving SDA/MA, SSA's determination that disability or blindness does not exist for SSI is final and the SDA/MA case must be processed for closure if:

- The determination was made after January 1, 1990, and no further appeals may be made at SSA; or
- The client failed to file an appeal at any step within SSA's 60-day limit, and the client is not claiming:
 - A totally different disabling condition than the condition SSA based its determination on, or
 - An additional impairment(s), change, or deterioration in his/her condition that SSA has reviewed and not made a determination on yet.

BEM 271, p 9.

The Petitioner was an ongoing SDA recipient and had applied to the Social Security Administration (SSA) for Supplemental Security Income (SSI) benefits. On December 17, 2015, the Department received the Petitioner's DHS-49-FR that indicated he was claiming worsening physical conditions due to complications from diabetes, which had not been previously identified on a December 9, 2014, DHS-49-F. When the MRT received the Petitioner's file for purposes of determining his eligibility for continuing SDA benefits, it issued a DHS-49-C Deferral Monitor stating that no documentation of a reversal of its prior finding of non-disability has been submitted. On March 3, 2016, the Department notified the Petitioner that he was no longer eligible for SDA benefits as of April 1, 2016.

The Petitioner was an ongoing SDA recipient that had fulfilled the requirement of applying for SSI benefits. The Petitioner's application for SSI had been denied by the SSA but this denial of benefits had been appealed by the Petitioner within the SSA's 60-day deadline. The evidence on the record supports a finding that the Petitioner was claiming worsening conditions totally different than previously reported. There is also

evidence that the Petitioner has appealed the denial of SSI benefits to the SSA's Appeals Council.

While verification of the Petitioner's appeal to the Appeals Council was received by the Department after sending its Notice of Case Action, this Administrative Law Judge finds that the Department had a duty to check on the current status of the Petitioner's SSI application before making initiating a closure of SDA benefits. If the Department had checked on the Petitioner's SSI application, it would have been discovered that his application was before the Appeals Council.

Furthermore, despite the fact that the Petitioner's SSI application has been denied, BEM 261 does not explicitly state that SSA final determinations of disability are binding on eligibility determination for that program. It is plausible that a person could be ineligible for SSI benefits, but eligible for SDA benefits. Such a scenario would occur if the person was certified as unable to work due to mental or physical disability for at least 90 days (the durational requirement for SDA eligibility) but less than 12 months (the durational requirement for SSI eligibility). It is also plausible that the physical disabilities and worsening conditions the Petitioner reported on December 17, 2015, would prevent him from performing any work for at least 90 days.

Although the Petitioner has not received certification that he is unable to work for at least 90 days, this Administrative Law Judge finds that he is entitled to a determination from the MRT of whether he is disabled for the purposes of SDA eligibility.

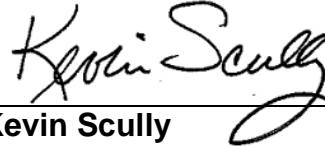
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed the Petitioner's State Disability Assistance (SDA) benefits as of April 1, 2016.

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:

Initiate a determination of the Petitioner's eligibility for State Disability Assistance (SDA) benefits as of April 1, 2016, in accordance with policy with adequate notice to the Petitioner.



KS/las

Kevin Scully
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

DHHS

[REDACTED]

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Petitioner

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