



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 8, 2016
MAHS Docket No.: 16-015527
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner, [REDACTED], was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's State Disability Assistance (SDA) application?

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 applied for SDA on [REDACTED].
2. The Department sent the Petitioner a Medical Determination Verification Checklist (VCL) on [REDACTED], with a due date of [REDACTED]. The VCL directed the Petitioner to apply for Social Security Administration (SSA) disability benefits. Exhibit 2.
3. The Department issued a Notice of Case Action, dated [REDACTED], denying the Petitioner's SDA application for failure to return documentation to complete Disability Determination and specifically that she failed to return current proof that she had applied for Supplemental Security Income (SSI)/Social Security Disability by extended due date of [REDACTED]. Exhibit 1.

4. At the request of the Department, the SSA verified as of [REDACTED], that the Petitioner had a pending Retirement, Survivors and Disability Insurance (RSDI) application. Exhibit 3.
5. The Petitioner was scheduled for a Disability Determination Service (DDS) medical exam by SSA on [REDACTED].
6. The Petitioner requested a timely hearing on [REDACTED], protesting the Department action.

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.

In this case, the Department denied the Petitioner's SDA application for alleged failure to provide verification that she applied to SSA disability benefits by extended due date of [REDACTED]. Exhibit 1. The Department's VCL requested the Petitioner apply for SSA disability benefits. The VCL also advised the Petitioner to provide current proof that you had applied for SSI/Social Security Disability by due date. The VCL does not require proof that both RSDI and SSI applications be verified. The Department was provided several documents by Petitioner including an appointment notice from SSA after the application for a disability examination, dated [REDACTED], and an application summary by SSA indicating Petitioner had applied for SSA disability in [REDACTED]. A further letter from the DDS indicated that she had to attend a medical exam appointment. The Petitioner also read into the record the first sentence of the letter of appointment which stated "after reviewing your claim for disability benefits we found that we need more medical information." It is unlikely that an exam would be scheduled without an application pending. None of these documents was presented with the hearing packet by the Department but were testified to by the Petitioner.

The Department also received its own verification from SSA dated [REDACTED], indicating the Petitioner had a pending SSA application for RSDI. Exhibit 3. The Petitioner properly demonstrated that she had applied for SSA disability benefits, which is what she was requested to do. When queried at the hearing, the Department indicated that it was its position that the Petitioner had to apply for both SSI and RSDI; otherwise, she would not have satisfied the proof of application requested by the Department. The Department's denial of Petitioner's application, based on the evidence

presented and the requirements of Department policy, was incorrect and in error and will be explained below.

Applicable Department policy requires the following as regards SDA applications and verification of SSA application:

As a condition of eligibility individuals must apply for any state and/or federal benefits for which they may be eligible. This includes taking action to make the entire benefit amount available to the group. BEM 270, (April 1, 2016), p. 1.

SDA and MA

At program application or request for disability deferral, clients must apply for or appeal benefits through the SSA if claiming disability and/or blindness. This is a condition of program eligibility; see BEM 270, Pursuit of Benefits. BAM 815, (October 1, 2016), p. 1-2.

Verification can be provided as follows:

Verification of SSA Application or Appeal

- State Online Query (SOLQ).
- DHS-1552, Verification of Application for SSI from SSA.
- Correspondence from SSA. BAM 815, (October 1, 2016), p. 8

In this case, the Department's position that the Petitioner did not demonstrate verification that an SSA application for disability benefits was met is not supported by the evidence presented at the hearing. The evidence, based upon the Department's own documents presented at the hearing, indicates that the Petitioner had a pending application for RSDI and that Petitioner had provided the Department evidence of a scheduled medical exam by SSA. Nothing further was required to satisfy the requirements cited above. In addition, SSI is only available to an individual with no work record credits. In this case, the SSA verified that Petitioner had an RSDI application pending, and thus, would not also be considered for SSI as SSA apparently determined she had sufficient work credits to be eligible to apply for RSDI. Department policy provides:

For individuals applying for FIP, SDA, RCA and disability-related MA, verification must be obtained from SSA that an application or appeal is on file **before** the case is referred to the DDS. BEM 270, April 1, 2016, p. 7

FIP, SDA, RCA, CDC, and Medicaid

RSDI benefits are payable to a wage earner and/or his/her dependents. The benefits are administered by the Social

Security Administration (SSA). The wage earner must be covered by Social Security and must be one of the following:

- Retired and at least age 62.
- Disabled or blind.
- Dead.

FIP, SDA, RCA and CDC

SSI benefits are paid to persons who are aged (65 or older), blind or disabled. The following individuals must be referred to SSA to apply for SSI:

- Persons age 65 or older.
- Person applying, receiving or eligible for SDA and disability-related MA. BEM 270, (April 1, 2016) p. 3.

Once a client has been determined disabled by the Department through DDS, the Department does require that the client apply for SSI which is beneficial to both the client and the Department BEM 270 provides:

The federal SSI benefit payment rates are substantially higher than the state-funded FIP/SDA payment rates. It is a benefit to both the state-funded FIP/SDA recipient and the state when the individual is determined eligible for federal SSI benefits. BEM 271, (January 1, 2016), p.1

Clients who receive state-funded FIP or SDA who meet potential eligibility for SSI or have a Disability Determination Service (DDS) decision that indicates they meet the criteria for MA based on blindness or disability are required to pursue SSI; see BEM 270, Pursuit of Benefits. (Emphasis supplied)

SDA

- Refer SDA clients to the SSA to apply for or appeal SSI when they also receive or have been found as potentially eligible for MA based on a DDS decision that he/she is blind or disabled.

Client Responsibilities

- SDA clients receiving or those who have been found eligible for disability-related MA **must** comply with the requirements listed in this item. These clients **must** also cooperate with all SSA requirements and procedures

when applying for SSI benefits. Failure to comply as required results in group ineligibility for SDA.

Each local office **must** establish a system to:

- Identify potential SSI recipients.

Refer SDA clients receiving or those who have been found eligible for disability-related MA to the SSA to apply for SSI. BEM 271, p. 2

There was no evidence that the Petitioner had been determined eligible for SDA or determined eligible for MA based upon disability. Thus, BEM 271 would not require that she apply for SSI in order to fulfill policy requirements.

Based upon the forgoing, it is determined that the Department improperly denied the Petitioner's [REDACTED], SDA application for failure to verify that she applied for SSA disability benefits.

DECISION AND ORDER

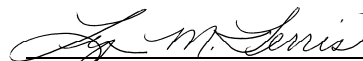
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** act in accordance with Department policy when it denied the Petitioner's SDA application.

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. The Department shall reregister the Petitioner's [REDACTED], SDA application and process the application to determine SDA eligibility.

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

[REDACTED]