



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 11, 2016
MAHS Docket No.: 16-002549
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 April 6, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED] Hearings Facilitator; and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's State Disability Assistance (SDA) application effective December 16, 2015?

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 [REDACTED], Petitioner applied for SDA benefits. See Exhibit A, pp. 40-69.
2. On [REDACTED], the Department sent Petitioner a Medical Determination Verification Checklist ("medical packet") and the medical packet was due back by [REDACTED]. See Exhibit A, pp. 70-71. The medical packet requested the following documentation: (i) Medical Examination Report (DHS-0049); (ii) Medical – Social Questionnaire (DHS-49-F); (iii) Authorization to Release Protected Health Information (DHS-1555); and (iv) proof of pending Social Security Administration (SSA) application. See Exhibit A, pp. 70-75.

3. On [REDACTED] the Department also sent Petitioner a Verification Checklist (VCL), which requested proof of annuity, residential address, and checking account, and the documents were due back by [REDACTED]. See Exhibit A, pp. 76-77.
4. The Department indicated that Petitioner submitted some of the requested documentation on [REDACTED] 15, but submitted the remaining verifications on [REDACTED], which occurred after the due date.
5. Petitioner indicated that she submitted all of the required verifications by the due date of [REDACTED].
6. On [REDACTED] the Department sent Petitioner a Notice of Case Action notifying her that her SDA application was denied effective [REDACTED], ongoing, for failure to comply with the verification requirements. See Exhibit A, pp. 78-81.
7. On [REDACTED], Petitioner filed a hearing request, protesting the SDA denial and the closure of her Food Assistance Program (FAP) benefits. 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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

Preliminary matter

On [REDACTED], the Department sent Petitioner a Notice of Case Action, which also notified her that her FAP benefits would close effective [REDACTED]. See Exhibit A, p. 78. As such, Petitioner filed a hearing request in which she disputed the closure. See Exhibit A, pp. 2-3. On [REDACTED], the Department sent Petitioner a Notice of

Case Action notifying her that her FAP benefits continued effective [REDACTED], which meant that her FAP benefits were reinstated and there was no lapse in coverage. See Exhibit A, pp. 82-88. Petitioner acknowledged that she was no longer disputing her FAP benefits. As such, Petitioner's FAP hearing request is **DISMISSED**.

SDA application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (July 2015), p. 8. This includes completion of necessary forms. BAM 105, p. 8.

For SDA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (January 2016), p. 6.

Verifications are considered to be timely if received by the date they are due. BAM 130, p. 7. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 7. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day. BAM 130, p. 7.

The Department sends 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. BAM 130, p. 7.

Additionally, BAM 815 explains the process for obtaining medical evidence provided by the client and how it would be reviewed by the Disability Determination Service (DDS). See BAM 815 (January 2016), pp. 1-11.

At application or medical review if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability. BAM 815, p. 2. The Department denies the application or place an approved program into negative action for failure to provide required verifications. BAM 815, p. 2.

The Department provides a multi-step process for medical determination applications. See BAM 815, pp. 2-10. For step 6, the Department completes a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications required:

- DHS-49-F.
- DHS-1555.
- DHS-3975, Reimbursement Authorization (for state-funded FIP/SDA only).
- Verification of SSA application/appeal.

BAM 815, p. 4. A further review of the steps indicated that the Medical-Social Questionnaire (DHS-49-F) and Authorization to Release Protected Health Information (DHS-1555) are mandatory forms that must be completed. BAM 815, pp. 2-6.

As to verification of SSA application/appeal, at program application or request for disability deferral, clients must apply for or appeal benefits through the SSA if claiming disability and/or blindness. BAM 815, pp. 1-2. This is a condition of program eligibility. BAM 815, pp. 1-2. Verification of SSA application or appeal includes: (i) Singly Online Query (SOLQ); DHS-1152, Verification of Application for Supplemental Security Income (SSI) from SSA; or correspondence form SSA. See BAM 815, p. 8.

In the present case, the Department argued that Petitioner failed to submit all of the requested documentation by the due date. First, the Department testified that Petitioner submitted all of the documentation on [REDACTED], which was after the due date. But then, the Department changed its testimony and acknowledged that it received some documentation on [REDACTED]. Still, the Department testified that Petitioner failed to submit all the necessary verifications; for example, the Medical-Social Questionnaire, Authorization to Release Protected Health Information, driver's license, and proof of SSA application.

In response, Petitioner argued that she submitted all of the requested verifications by the due date when she uploaded it via Mi Bridges. Petitioner also testified that she mailed the documentation on [REDACTED], which was subsequently received by the Department on [REDACTED]. See Exhibit 1, pp. 1-4 (Proof of mailing and certified mail receipt). Included with Petitioner's hearing request, she provided copies of the documents she alleged that she submitted on the due date. See Exhibit A, pp. 4-39 and 93-128. Also included in the Petitioner's packet was a letter from her attorney dated [REDACTED], which confirmed that she has an application pending with SSA. See Exhibit A, p. 14.

Based on the foregoing information and evidence, the Department improperly denied Petitioner's Cash (SDA) application effective [REDACTED], ongoing, in accordance with Department policy. The Department first testified that she submitted all the documentation after the due date on [REDACTED], but then changed its story and acknowledged that she submitted some documentation on [REDACTED]. The Department argues that she still failed to submit all the necessary documentation by the due date. However, the Department did not provide an Electronic Case File (ECF) or copies of the documentation she submitted on [REDACTED], in order to prove its burden of showing that she did not submit all of the proofs requested. Conversely, Petitioner provided copies of documentation she claimed to submit by the due date. The undersigned finds Petitioner's testimony credible that she submitted all of the documentation by the due date. Petitioner's credibility is supported by the fact she provided copies of some of the verifications she submitted by the due date, and copies of her proof of mailing showing that she mailed the forms to the Department on [REDACTED]. By providing this evidence, this supports Petitioner's credibility that she in fact submitted all of the documentation by the due date.

Additionally, an issue arose as to the Department claiming Petitioner did not submit proof of her SSA application by the due date. However, Petitioner provided a letter from her attorney acknowledging that she has an application pending with SSA. See Exhibit A, p. 14. Petitioner testified that at the pre-hearing conference, the supervisor indicated that the only document the Department did not receive was the proof of SSA application. Petitioner testified that she was given a form to have SSA complete, which she subsequently had completed the same day. Petitioner testified that this form was not included in the original medical packet. Nonetheless, the undersigned finds the letter from her attorney is sufficient documentation showing proof of her SSA application pending. Moreover, policy states that verification of SSA application or appeal includes the Department checking the SOLQ. See BAM 815, p. 8. The SOLQ is a data exchange that reports point in time information on Retirement, Survivors and Disability Insurance (RSDI), Medicare, and SSI information. See BAM 801 (July 2015), p. 1. There was no evidence presented by the Department showing that it used this form of electronic method to verify if she had an application pending. Nevertheless, because the undersigned finds Petitioner's testimony credible that she submitted all of the necessary verifications by the due date, the Department did not act in accordance with Department policy when it denied Petitioner's SDA application effective [REDACTED]. See BAM 105, p. 8; BAM 130, pp. 6-7; and BAM 815, pp. 1-11. The Department will re-register and reprocess Petitioner's SDA application.

It should be noted that the undersigned also finds that Petitioner made a reasonable effort to provide the verifications requested before the time period given had elapsed. BAM 130, p. 7. This is an additional reason as to why the Department improperly denied Petitioner's SDA application.

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 Petitioner's SDA application effective December 16, 2015.

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. Initiate re-registration and reprocessing of Petitioner's SDA application dated [REDACTED];
2. Begin issuing 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.

IT IS ALSO ORDERED that Petitioner's **FAP** hearing request is **DISMISSED**.

EF/hw



Eric Feldman

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]

[REDACTED]

Petitioner

[REDACTED]