



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: September 6, 2016
MAHS Docket No.: 16-010785
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. 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 August 31, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with her brother, [REDACTED] who served as [REDACTED] interpreter. Petitioner represented herself at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) case and deny her application for Food Assistance (FAP) 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. Petitioner was an ongoing recipient of SDA benefits.
2. In June 2015 Petitioner submitted medical documentation and requested verifications to the Department to verify her disability.
3. The Department did not send Petitioner's medical documentation to the Medical Review Team (MRT)/Disability Determination Service (DDS) for a disability determination.

4. On July 5, 2016, the Department timely received Petitioner's completed redetermination for her SDA case and additional new medical documentation to verify Petitioner's recent surgery.
5. The Department did not send Petitioner's previously submitted medical documentation or newly submitted medical documentation to the MRT/DDS for a new disability decision or a reviewed decision.
6. The Department also did not send Petitioner an updated medical verification checklist or request any additional medical documentation needed to make a disability determination after receiving Petitioner's completed redetermination.
7. On July 5, 2016, Petitioner submitted an application for FAP benefits. (Exhibit A)
8. On the FAP application, Petitioner reported that she is in school at a college or university full time. Petitioner also reported that she is: caring for a child under 6 years old; caring for a child who is 6 to 12 years old and adequate daycare is not available for the child; and that she is in a federal or state funded work-study program. (Exhibit A, p. 10)
9. On the FAP application, Petitioner reported that she is not disabled. (Exhibit A, pp. 4-5)
10. The Department did not send Petitioner a verification checklist or similar request for verifications in connection with the information reported in her FAP application.
11. On July 11, 2016, the Department sent Petitioner a Notice of Case Action informing her that the FAP application was denied on the basis that she is an ineligible student. (Exhibit B)
12. On July 18, 2016, the Department sent Petitioner a Notice of Case Action informing her that effective August 1, 2016, her SDA case would be closed on the basis that she does not meet program requirements and on the basis that she failed to return a redetermination. (Exhibit C)
13. On July 28, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her SDA and FAP 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).

SDA

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 the present case, Petitioner applied for cash assistance benefits in June 2015 and was initially approved for assistance under the Family Independence Program (FIP). The Department testified that after Petitioner's divorce decree was finalized, the type of cash assistance she was approved for changed from the FIP to the SDA program. It was established at the hearing that in June 2015, Petitioner submitted medical documentation to the Department which was to be forwarded to the MRT/DDS for a disability determination, however, for an unexplained reason, the Department testified that Petitioner's medical verifications were not forwarded and a disability determination not made.

It was further established that Petitioner's SDA case was due for a redetermination and that on July 5, 2016, Petitioner timely returned her completed SDA redetermination to the Department. Petitioner testified and the Department confirmed that with the redetermination, Petitioner submitted some updated medical documentation regarding a surgery. The Department testified that upon receipt of Petitioner's redetermination, it discovered that there was no disability determination in Petitioner's case file that would make her eligible for SDA and initiated the closure of her SDA case. The Department sent Petitioner a Notice of Case Action advising her that effective August 1, 2016, her SDA case would be closed on the basis that she failed to return a redetermination and on the basis that she did not meet program requirements for SDA. (Exhibit C)

Department policy provides that in order to receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2015), p. 1. The Department is to verify the disability at application, redetermination, when required by the DDS, or as needed when the client's circumstances changed. If a client's circumstances change so that the verification method used to establish the disability is no longer valid, the Department is to obtain new verification following the policy outlined in BAM 130. The Department is not to immediately send a negative action notice for closure prior to requesting verification. BEM 261, pp. 4-5. See BAM 130 (July 2016) and BAM 815 (January 2016).

At the hearing, the Department testified that at redetermination, upon discovering that the MRT/DDS had not made a disability determination with respect to Petitioner's SDA eligibility, it should have sent Petitioner's medical documentation and verifications to the MRT/DDS for review. Additionally, under the facts in this case, the Department was required to obtain new verification from Petitioner and to process the newly submitted medical documentation that was received with the redetermination. Furthermore, a review of the Notice of Case Action establishes that the Department closed Petitioner's SDA case on the basis that she failed to return a redetermination, which is clearly

improper as it was undisputed that Petitioner timely completed the SDA redetermination. See BAM 210 (July 2016).

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 Petitioner's SDA case.

FAP

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.

In this case, Petitioner requested a hearing disputing the denial of her FAP application on the basis that she is an eligible student.

A person who is in student status and does not meet the criteria in BEM 245 is a non-group member and is not eligible to receive FAP benefits. BEM 212 (October 2015), p. 9. A person enrolled in a post-secondary education program may be in student status and eligible for FAP assistance, provided that certain eligibility criteria are met. The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). BEM 245 (July 2016), pp.1-6. For FAP cases, the Department must verify school enrollment for persons age 18-49 attending a post-secondary education program at application, redetermination, and reported change. Additionally, an award letter or other verification of eligibility for disability benefits issued by government or private sources is sufficient verification for the physically or mentally unfit for employment criteria of student status FAP eligibility. BEM 245, pp.11-12.

At the hearing, the Department testified that based on the information reported on Petitioner's application and the information it had in Petitioner's case file with respect to her school enrollment for the previous winter 2016 semester, it determined that she was ineligible for FAP benefits based on her status as a student. The Department stated that Petitioner continued to be ineligible for FAP based on her status as a student even though she may not have been registered for the summer semester. (Exhibit A; Exhibit B). A review of the FAP application establishes that Petitioner reported to be the caretaker of a child under 6, the primary caretaker of a child age 6 to 12 who does not have adequate child care, and that she is in a work study program, all of which, if verified, make Petitioner potentially eligible for FAP benefits while in student status. (Exhibit A). Petitioner testified that although she was previously enrolled in a summer semester class, she dropped the class prior to her application due to her surgery.

Additionally, although Petitioner indicated she was not disabled on her application, at the time of Petitioner's FAP application, she was receiving SDA benefits and as discussed above, had submitted medical documentation to the Department to verify her disability in connection with a redetermination. The Department confirmed that it did not send Petitioner a verification checklist or similar request for verification in connection with the FAP application. Furthermore, the Department failed to establish that it properly considered whether Petitioner met any of the criteria found in BEM 245, thereby making her eligible for FAP benefits despite her student status.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FAP application based on her status as an ineligible student.

DECISION AND ORDER

Accordingly, the Department's SDA and FAP decisions are **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. Reinstate Petitioner's SDA case effective August 1, 2016;
2. Process Petitioner's SDA redetermination and medical verifications to determine her continued eligibility for SDA benefits from August 1, 2016, ongoing, in accordance with Department policy;
3. Issue supplements to Petitioner for any SDA benefits she was eligible to receive but did not from August 1, 2016, ongoing, in accordance with Department policy;
4. Register and process Petitioner's July 5, 2016, FAP application to determine her eligibility for FAP benefits from the application date, ongoing;

5. Issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from July 5, 2016, ongoing; and
6. Notify Petitioner in writing of its decisions.



ZB/tlf

Zainab A. 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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
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