



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: November 18, 2016
MAHS Docket No.: 16-012640
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on [REDACTED], from [REDACTED] Michigan. Petitioner appeared and was unrepresented. [REDACTED] Petitioner's partner, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's State Disability Assistance (SDA) eligibility due to Petitioner's denial of Social Security Administration 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 SDA recipient.
2. On [REDACTED], the SSA Appeals Council denied Petitioner's claim of disability.
3. Petitioner's basis for disability worsened since [REDACTED].
4. On [REDACTED], MDHHS terminated Petitioner's SDA eligibility, effective [REDACTED] based on the denial of SSA benefits.

5. On [REDACTED], Petitioner requested a hearing to dispute the termination of SDA benefits.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of SDA benefits. MDHHS presented a Notice of Case Action dated [REDACTED]. The presented notice indicated Petitioner's SDA eligibility would end [REDACTED]. The stated reason for termination (as generated by the MDHHS database) was an alleged Petitioner failure to verify information; MDHHS testimony conceded this reason for termination was improper. The notice included a specialist-supplied basis for SDA termination; Petitioner's specialist wrote "per DHHS policy when a client is denied by the SSA agency for the same disability 2x's, client is no longer eligible for the disability program at the state level." The provided basis for termination is not an accurate reflection of MDHHS policy, though a comparable MDHHS policy exists.

[For SDA benefits,] SSA's final determination that a client is not disabled and/or blind supersedes DDS's certification. BAM 815 (January 2016), p. 2. See BEM 260 for MA to determine when to proceed with a medical determination for these clients. *Id.*

The above-cited policy could be interpreted to justify a determination that a client is automatically deemed not disabled after a client exhausts appeals within the SSA for a claim of disability. Such an interpretation is reasonable and will be applied to the present case.

MDHHS presented a SOLQ for Petitioner dated [REDACTED]. An SOLQ is a document available to MDHHS which provides SSA-related information about a client. Petitioner's SOLQ provided the following information: an application date of [REDACTED]; an appeals date of [REDACTED]; and an "Appeals Decision Date" of [REDACTED]. An SOLQ is known to only provide information about a client's most recently submitted application. The "Appeals Decision Date" is known to refer to a date that a client was denied by the SSA Appeals Council, the final appeal allowed within the SSA.

Petitioner testified she applied numerous times for SSA benefits. Petitioner conceded SSA has yet to find her to be disabled. Petitioner testified she was denied benefits in [REDACTED] and reapplied some time in [REDACTED]. Petitioner testified her [REDACTED] application was again denied and that she recently again applied for SSA-related benefits.

Petitioner's testimony seemed convincing, however, it contradicted the presented SOLQ. It is notable that Petitioner appeared to confuse her SDA eligibility with SSA throughout the hearing. It is also notable that Petitioner testified her claim of disability is partially based on having an I.Q. of [REDACTED]. The low I.Q. makes it more likely that Petitioner was mistaken about her SSA application dates.

Based on presented evidence, it is found the most recent "final determination" of Petitioner's claim of SSA eligibility occurred on [REDACTED]. This finding provokes questions why MDHHS would have waited so long to terminate Petitioner's SDA eligibility after the disability denial by SSA.

MDHHS has no known time limit in terminating a client's SDA eligibility following SSA denial of disability. Thus, MDHHS cannot be barred from the SDA termination simply based on the passage of time since Petitioner exhausted her SSA appeals.

Consideration was given to finding that a previously-issued administrative hearing decision barred MDHHS from terminating Petitioner's SDA eligibility. Ultimately, the consideration was rejected.

MDHHS presented an administrative hearing decision (Exhibit 1, pp. 10-15) dated [REDACTED]. The decision considered whether MDHHS properly determined Petitioner to not be disabled for SDA benefits. The stated date that MDHHS determined Petitioner to not be disabled was [REDACTED] (see Exhibit 1, p. 10). The authoring administrative judge reversed the MDHHS determination and found Petitioner to be disabled for purposes of SDA benefits.

Since the administrative order was issued, SSA is not known to have issued a "final" denial of disability and MDHHS is not known to have reconsidered Petitioner's status as disabled. This information suggests that the provided basis of SDA termination contradicts the previously issued administrative order. Technically, reliance on the "final" SSA determination of disability is a separate consideration from what the administrative judge considered. Thus, MDHHS is not barred from terminating Petitioner's SDA eligibility due to the prior administrative order.

SSA's determination that disability or blindness does not exist for SSI is final for MA 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:
 - o A totally different disabling condition than the condition SSA based its determination on, or
 - o An additional impairment(s) or change or deterioration in his condition that SSA has not made a determination on.

BEM 260 (July 2015), p 3.

MDHHS terminated Petitioner's SDA eligibility based on a [REDACTED] year-old disability decision. Petitioner contended her knee has worsened since she was last denied SSA-related benefits. Petitioner did not verify her claim, however, her testimony is reasonable given the substantial amount of time between the SSA "final" denial and the termination of SDA benefits. Had MDHHS acted sooner than [REDACTED] years to terminate Petitioner's SDA eligibility, such deference may not have been given to Petitioner.

It is found Petitioner established a worsening of condition since a denial of SSI benefits. Thus, the [REDACTED] "final" determination of disability by the SSA is not applicable. Accordingly, it is found MDHHS improperly terminated Petitioner's SDA eligibility based on the "final" determination of disability by the SSA.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's SDA eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's SDA eligibility, effective [REDACTED] subject to the finding that Petitioner's basis for disability worsened since a final determination of disability made by SSA in [REDACTED] and
- (2) Initiate a supplement of any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki
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]