



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: November 21, 2016
MAHS Docket No.: 16-014342
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 November 2, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's SDA (State Disability Assistance) eligibility begin date.

The second issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) application for energy services.

The third issue is whether Petitioner is entitled to a hearing concerning Supplemental Security income (SSI) and/or Social Security Administration (SSA) 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. On May 13, 2016, Petitioner applied for SER energy services.
2. On May 18, 2016, Petitioner applied for SDA benefits.

3. On an unspecified date, MDHHS issued SDA benefits to Petitioner, effective June 16, 2016.
4. On September 22, 2016, MDHHS denied Petitioner's SER application due to an automatic denial after 60 days when there is "pseudo certification."
5. On September 27, 2016, Petitioner requested a hearing to dispute the denial of SER, begin date of SDA, and SSI/SSA 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, in part, to dispute SDA eligibility. Petitioner's hearing request did not detail her dispute. Petitioner testified that MDHHS eventually issued SDA benefits since June 16, 2016. Petitioner contended she was entitled to more SDA benefits than issued by MDHHS.

[For initial SDA benefits,] provided the group meets all eligibility requirements, [MDHHS is to] begin assistance in the pay period in which the application becomes 30 days old. BAM 115 (January 2016), p. 25. [For cash-assistance programs only, a pay period is] the half-month that a warrant/benefit covers. BAM 400 (October 2015), p. 1. A pay period is either the first through the 15th day or the 16th through the last day of the month. *Id.*

It was not disputed Petitioner applied on May 18, 2016. Petitioner's application became 30 days old during the pay period from June 16, 2016 through June 30, 2016; thus, Petitioner was entitled to receive SDA benefits beginning June 16, 2016.

MDHHS presented an Eligibility Summary (Exhibit 1, p. 1) dated October 26, 2016. The summary listed SDA issuances to Petitioner. The document listed that MDHHS issued SDA benefits to Petitioner since June 16, 2016. It is found MDHHS properly issued SDA benefits to Petitioner.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Services Emergency Relief Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of a SER application. Petitioner's hearing request did not detail her dispute. Petitioner testimony clarified that the dispute specifically concerned the denial of a SER application for energy services that was the subject of a prior administrative hearing.

It was not disputed that a previous administrative hearing decision (see registration # 16-008206) found Petitioner applied for SER for energy services on May 13, 2016. It was also not disputed that MDHHS was administratively ordered to process Petitioner's SER application.

MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 2) dated September 22, 2016. The decision notice stated, "Automatic denial of SER after 60 days – client failed to verify payment after pseudo certification."

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, do not issue payment until the client provides proof that their payment has been made or will be made by another agency. ERM 208 (October 2015), p. 4. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made. *Id.* The client will then have to reapply. *Id.* The DHS-1419, Decision Notice, must be used to inform the SER group of the amounts that they must pay and the due date for returning proof of their payment. *Id.*

The client is notified on the DHS-1419, Decision Notice, of their copayment amount and the deadline to return verification that they have paid their copayment. *Id.*, p. 2. In Bridges, the worker must pseudo-authorize the application in order to establish the deadline date and to issue the DHS-1419. *Id.* The deadline date is always the last day of the 30-day eligibility period regardless of when the client requests the service. *Id.* The client must provide verification of their payment by the last day of the 30-day eligibility period. *Id.*

It was not disputed Petitioner failed to provide MDHHS with proof of a copayment. Thus, presented evidence was indicative that MDHHS properly denied Petitioner's SER application. Two reasons preclude such an outcome.

First, MDHHS presented no evidence to justify that a copayment was appropriate. MDHHS could not state if Petitioner had an income copayment, asset copayment, shortfall, or whether the maximum SER payment was insufficient to resolve Petitioner's emergency. Thus, it cannot be found that any type of copayment was necessary.

Secondly, MDHHS did not issue a SER decision until several months after Petitioner applied for SER. Thus, even if Petitioner was required to make a copayment, she had no opportunity to do so because of MDHHS' tardiness in application processing. MDHHS policy could be interpreted that a SER application processed after 30 days is automatically denied if a copayment is required; it is highly doubtful MDHHS would have intended such an unjust outcome. A more reasonable interpretation is that the

requirement to verify a copayment within 30 days is only applicable when a client is given sufficient notice so that a copayment could be made within 30 days of the application date.

Whichever basis for reversing the SER application denial is followed leads to the same result- reinstatement of Petitioner's SER application. It is found that MDHHS improperly denied Petitioner's SER application.

Petitioner's hearing request also indicated a dispute of SSI and SSA. Petitioner testimony indicated that her SSI/SSA-related benefits were wrongly suspended, reduced, or terminated.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see BAM 600 (June 2015), p. 4):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

An implied requirement of the above policy is that clients request disputes concerning MDHHS programs. SSI and/or SSA-related benefits are not benefits issued by MDHHS. Petitioner's hearing request will be dismissed concerning her dispute of SSI/SSA benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner is not entitled to an administrative hearing concerning SSI/SSA benefits. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly issued SDA benefits to Petitioner, effective June 16, 2016. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly processed Petitioner's SER application. 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 SER application for energy services dated May 13, 2016;
- (2) process Petitioner's application subject to the following findings:
 - a. MDHHS failed to establish Petitioner was required to make a copayment;
 - and

- b. MDHHS may not deny a SER application due to a client failing to make a copayment within 30 days of the application date unless written notice is issued timely so that a client has an opportunity to make the copayment within 30 days after the application date.

The actions taken by MDHHS are **PARTIALLY 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]