



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 21, 2016  
MAHS Docket No.: 16-014443  
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, a telephone hearing was held on November 3, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

### **ISSUE**

The issue is whether MDHHS properly sent notice of a termination of Petitioner's State Disability Assistance (SDA) eligibility.

### **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 benefit recipient through December 2014.
2. Beginning January 2015, MDHHS terminated Petitioner's SDA eligibility.
3. MDHHS did not send notice of the termination to Petitioner.
4. 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. Petitioner's hearing request stated her eligibility stopped January 2015. Petitioner's hearing request statement was consistent with MDHHS testimony that Petitioner last received SDA benefits in December 2014.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2014), p. 6. The request must be received in the local office within the 90 days. *Id.*

It was extraordinarily tempting to dismiss Petitioner's hearing request for being untimely. Petitioner waited over 20 months to request a hearing after MDHHS stopped issuing SDA benefits. Though Petitioner was exceptionally neglectful in requesting a hearing, MDHHS was also exceptionally neglectful.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. *Id.*, p. 2. A notice of case action must specify the following: the action(s) being taken by the department; the reason(s) for the action; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. *Id.*

MDHHS did not send written notice of termination with the hearing packet. MDHHS was given ample time during the hearing to verify that a notice of SDA termination was sent to Petitioner. MDHHS failed to uncover a written notice of SDA termination.

It is found that MDHHS failed to send proper written notice of termination. The failure to properly send notice has a twofold effect.

When MDHHS fails to issue written notice, a hearing dispute cannot be barred by the 90 day timeframe because written notice is a requirement to kick start the timeframe. Thus, Petitioner's hearing request is timely and an analysis of the merits of Petitioner's dispute may proceed.

The merits of Petitioner's dispute can be quickly analyzed. The failure to properly send written notice of closure renders the closure to be improper. Thus, MDHHS will be ordered to reinstate Petitioner's SDA eligibility.

**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 January 2015, subject to the finding that MDHHS failed to send proper written notice of termination; and
- (2) Issue a supplement of any benefits improperly not issued to Petitioner.

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

CG/hw



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**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]