



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: December 28, 2016
MAHS Docket No.: 16-016844
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 December 13, 2016, from Lansing, Michigan. Petitioner appeared and represented herself. [REDACTED], back-up Hearing Facilitator, appeared on behalf of the Department of Health and Human Services (Department).

The Department offered the following exhibits which were marked and admitted into evidence: **[Department's Exhibit 1:** Hearing Summary (page 1), Facts of Hearing (page 2), Request for Hearing (pages 3-5), Application for Assistance dated February 4, 2016 (pages 6-16), Medical Determination Verification Checklist, Notice to Apply, View History Correspondence, Electronic Case File (pages 17-21), Notice of Case Action dated February 26, 2016 (pages 22-25), Redetermination (pages 26-31), Notice of Case Action dated March 16, 2016 (pages 32-34), Assistance Application dated March 22, 2016 (pages 35-45), Bridges Eligibility Summary (page 46), Other Pending Reasons (page 47), Bridges Case Comments-Summary (pages 48-49)].

Petitioner did not offer any exhibits into evidence. The record closed at the conclusion of the hearing.

ISSUE

Did the Department properly process Petitioner's application for State Disability Assistance (SDA)?

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 February 4, 2016, Petitioner submitted an online application for cash assistance benefits. [Department's Exhibit 1, pp. 6-16].
2. Petitioner indicated that she was disabled on the February 4, 2016, application. [Dept. Exh. 1, pp. 9-10].
3. Petitioner failed to return all required verifications in order to make a disability determination for purposes of SDA benefits. [Dept. Exh. 1, pp. 17-18, 20-21].
4. On February 26, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which approved Petitioner for cash assistance (SDA) in the amount of \$ [REDACTED] per month effective March 1, 2016. [Dept. Exh. 1, pp. 22-25].
5. The Department opened Petitioner's SDA case in error.
6. Petitioner's SDA case was scheduled for redetermination in March 2016. [Dept. Exh. 1, pp. 26-31].
7. On March 16, 2016, the Department mailed Petitioner a Notice of Case Action (DHS-1605), which closed Petitioner's SDA case effective April 1, 2016, due to failure to provide all documentation necessary to complete a disability determination. [Dept. Exh. 1, pp. 32-34].
8. On March 22, 2016, Petitioner submitted an online application for cash assistance benefits and indicated that she was disabled. [Dept. Exh. 1, pp. 35-45].
9. Petitioner completed and returned all necessary verifications in order to determine whether she is disabled for purposes of SDA. [Hearing Testimony]
10. The Department failed to timely process Petitioner's March 22, 2016, application.
11. On November 10, 2016, Petitioner requested a hearing because the Department's local office failed to process her March 22, 2016, application for cash assistance based on disability. [Dept. Exh. 1, pp. 3-5].

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 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 instant matter, Petitioner requested a hearing because the Department failed to process her application for SDA after almost nine months. The Department contends that Petitioner's application was timely forwarded to the Disability Determination Service (DDS), but the DDS has yet to issue a decision.

The client has the right to request a hearing for any action, failure to act, or undue delay by MDHHS. BAM 105, p. 6. [Emphasis added]. The Michigan Administrative Hearing System (MAHS) may grant a hearing when there is a delay of any action beyond the standards of promptness. BAM 600 (10-1-2015), p. 4.

Policy requires the Department local office to do **all** of the following: (1) determine eligibility; (2) calculate the level of benefits; and (3) protect client rights. BAM 105 (7-1-2015), p. 1. [Emphasis in original]. The Department must also determine eligibility and benefit amounts for all requested programs. BAM 105, p. 17.

The standard of promptness (SOP) is the maximum time allowed to complete a required case action. Policy indicates that cases should be processed as quickly as possible. The SOP sometimes varies by program. BAM 220 (1-1-2016), p. 6. The SOP begins the date the department receives an application/filing form, with minimum required information. BAM 105, p. 14.

Generally, the Department local office must certify program approval or denial of an application within 45 days and Bridges will automatically generate the client notice. However, the period is 60 days for SDA applicants. BAM 115 (1-1-2016), p. 15.

If an application is **not** processed by the standard of promptness (SOP) date, the department worker is instructed to document the reason(s) in the case record. And to document further delays at 30-day intervals. However, this policy indicates that exceeding the SOP **cannot** be the **sole** reason for a denial. When one program approval/denial will exceed the SOP, the Department worker must certify eligibility results for any others such as FAP within the SOP, if possible. BAM 115, p. 32. [Emphasis in original].

The Disability Determination Service (DDS) develops and reviews medical evidence for disability and/or blindness and certifies the client's medical eligibility for assistance. BAM 815 (1-1-2016), p. 1. At application or medical review if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability. The Department will deny the application or place an approved program into negative action for failure to provide required verifications. BAM 815, p. 2.

BAM 815 contains ten steps that the Department follows for medical determination applications for claims of disability and/or blindness. BAM 815, pp. 2-3. The final step indicates that if any additional medical information is received after the completed forms are sent to DDS, the local office will forward the additional medical information to the DDS. However, for SDA and MA only, this policy indicates that the DDS may put a case on medical hold for further development. A medical hold letter will be sent to the client or authorized representative and a copy will be scanned into Bridges by DDS. Once DDS issues a medical hold, enter the appropriate medical deferral information in Bridges. BAM 815, pp. 2-3. [Emphasis added].

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department does not deny, and there is no dispute that Petitioner's March 22, 2016, application for cash assistance (SDA) was not processed within the SOP. The Department contends; however, that Petitioner's case is still in pending status and the DDS is cause of the delay.

The Administrative Law Judge acknowledges the fact that the local office has inquired with the DDS about the status of Petitioner's pending application for SDA. However, BAM 105, cited above, requires the Department determine eligibility. In addition, BAM 115, also cited above, requires that for purposes of SDA benefits, the local office must certify program approval or denial of an SDA application within 60 days. Here, the Department failed to comply with both BAM 105 and BAM 115. There is no evidence in this record that DDS placed Petitioner's case on a medical hold. The only evidence of record indicates that Petitioner's disability determination is "pending." [Dept. Exh. 1, p. 47]. While the DDS appears to share some responsibility for the delay in this matter, the local office may not entirely shift responsibility for the failure to comply with the SOP onto the DDS. BAM 105, p. 1, directs the Department to do three things: (1) determine eligibility, (2) calculate the level of benefits; and (3) protect the client's rights. Based on this record, the Department has failed to comply with BAM 105 in all three respects.

Based on the material, competent, and substantial evidence on the whole record, this Administrative Law Judge finds that the Department failed to timely and properly process Petitioner's March 22, 2016, application for cash assistance.

Therefore, this 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.

DECISION AND ORDER

Accordingly, the Department's 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. The Department shall initiate the recertification and reprocessing of Petitioner's March 22, 2016, application for cash assistance based on disability (SDA).
2. The Department shall expedite processing of Petitioner's March 22, 2016, application to the extent possible.
3. The Department shall initiate a redetermination as to whether Petitioner is entitled to retroactive and/or supplemental SDA benefits to the extent permissible under applicable policies.
4. The Department shall request a ticket to implement the above, if necessary.
5. The Department shall provide Petitioner with written notification of its decision.

IT IS SO ORDERED.

CAP/mc



C. Adam Purnell
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]

[REDACTED]

[REDACTED]

Petitioner

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