



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: January 12, 2017
MAHS Docket No.: 16-017285
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 January 5, 2017, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by General Services Program Manager [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED] [REDACTED]

ISSUE

Did the Department properly close Petitioner's 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. Petitioner was an on-going SDA recipient.
2. On August 15, 2016, the Department mailed to Petitioner a Redetermination (Exhibit 1 Pages 4-9) which he completed and returned to maintain his eligibility for SDA.
3. On October 31, 2016, the Department mailed a Notice of Case Action (NCA) informing Petitioner that his SDA would be closed as of December 1, 2016 (Pages 11-13). The Department's witness testified that it was closed because the

Department had concluded he had not applied for Social Security disability benefits.

4. The Department had not previously asked Petitioner to verify that he had applied for Social Security benefits.
5. On November 7, 2016, the Department received Petitioner's hearing request, protesting the closure of his SDA.

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 this case, Petitioner was an on-going SDA recipient. To receive SDA, the person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (7/1/15) p. 1. Disabled for SDA purposes is found if he:

- Receives other specified disability-related benefits or services, see Other Benefits or Services below, or
- Resides in a qualified Special Living Arrangement (SLA) facility, or
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS), see Medical Certification of Disability.

If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure. BEM 261, p. 1-2.

On September 17, 2015, Administrative Law Judge Adam Purnell held a hearing involving Petitioner. In a Hearing Decision dated September 22, 2015 (Pages 176-182), Administrative Law Judge Purnell found that Petitioner "continues to have physical and mental limitations that affect his functional capacity to do basic work activities (or residual functional capacity)." Petitioner was to continue receiving SDA and his next mandatory medical review was to be scheduled in September 2016. Similarly,

Administrative Law Judge Bill Sundquist held a hearing on September 16, 2014, (Pages 259-266) and he issued a Decision on September 18, 2014, finding that Petitioner's "current impairments in combination do continue to significantly limit physical abilities to do basic work acts. Therefore, the impairments are considered severe and that [Petitioner] is still considered disabled."

On October 11, 2016, the Department prepared a Report of Contact (Page 46) stating "client has not filed for SSA disability benefits" since October 7, 2015. It then returned "this claim to the county as ND (not disabled)".

There is no evidence that the Department provided Petitioner an opportunity to verify that he had "filed for SSA disability benefits". The Department has an obligation to "Tell the client what verification is required, how to obtain it, and the due date." BAM 130 (1/1/17) p. 3. The Department is not to take negative action until "The client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it." BAM 130 p. 7. Because it took negative action based upon a finding that he had not applied for SSA benefits, without allowing Petitioner an opportunity to verify that he had applied for SSA benefits, the Department erred. Furthermore, as explained in BEM 261, "If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do NOT simply initiate case closure." In this case, the Department initiated case closure without first determining if the Petitioner met any of the other disability criteria.

Petitioner filed his hearing request on November 7, 2016. The NCA was mailed October 31, 2016. Petitioner clearly submitted a timely hearing request. See BAM 600 (10/1/16) p. 24. "While waiting for the hearing decision, recipients must continue to receive the assistance authorized prior to the notice of negative action when the request was filed timely. Upon receipt of a timely hearing request, reinstate program benefits to the former level for a hearing request filed because of a negative action." The Department erred when it failed to provide SDA to Petitioner while his appeal was pending.

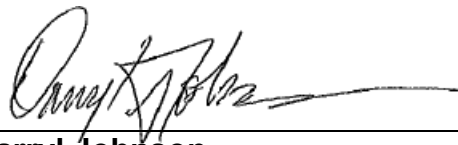
DECISION AND ORDER

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.

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. Redetermine Petitioner's eligibility for SDA as of December 1, 2016, and provide Petitioner with benefits if he is found to be eligible



DJ/mc

Darryl Johnson
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]

Petitioner

[REDACTED]