



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 17, 2017
MAHS Docket No.: 16-017286
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 12, 2017, from Lansing, Michigan. The Petitioner appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Eligibility Specialists [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) 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 on-going SDA recipient.
2. On April 20, 2015, the Department submitted Petitioner's medical records and SDA review application to the Medical Review Team (MRT).
3. Petitioner applied for Retirement, Survivors, and Disability Insurance (RSDI) benefits from the Social Security Administration (SSA).
4. The Department began the review action for Petitioner's SDA on April 16, 2016.

5. On October 27, 2016, the Department called the [REDACTED] [REDACTED] office of the SSA and learned that his RSDI application had been denied on September 8, 2016, after the SSA concluded that he was not disabled.
6. The MRT assigned Petitioner's SDA case to a worker on November 3, 2016, and on November 4, 2016, the MRT returned the packet with an explanation that it would not be making a decision on his case because the SSA had concluded that he was not disabled.
7. On November 9, 2016, the Department mailed to Petitioner a Notice of Case Action (Exhibit A Pages 2-3) informing Petitioner that his SDA would be closing on December 1, 2016, because he was not disabled.
8. Petitioner requested a hearing on November 16, 2016, protesting the decision to close his SDA.
9. Petitioner credibly testified that he has appealed the SSA decision.

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 SDA recipient. BEM 261 (7/1/15) is the governing manual for Disability – SDA. Disability is defined in that manual at pages 1-2.

DISABILITY

A person is disabled for SDA purposes 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.

Other Benefits or Services

Persons receiving one of the following benefits or services meet the SDA disability criteria:

- Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- Supplemental Security Income (SSI), due to disability or blindness.
- Medicaid (including deductible) as blind or disabled if the disability/blindness is based on:
 - A Disability Determination Service (DDS) determination, or
 - A hearing decision, or
 - Having SSI which was based on blindness or disability that was recently terminated (within the past 12 months) for financial reasons; see Recently Eligible for SSI in BEM 260.

Medicaid received by former SSI recipients based on policies in BEM 150 under SSI TERMINATIONS, including MA While Appealing Disability Termination, does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria. See Medical Certification of Disability in this item.

- Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has a signed active individual plan for employment (IPE) with MRS. Do **not** refer or advise applicants to apply for MRS for the purpose of qualifying for SDA.

- Michigan Bureau of Services for Blind Persons (BSBP), formally known as the Commission for the Blind. A person is receiving services if he has been determined eligible for BSBP and has an active BSBP case.
- Special education services from the local intermediate school district. To qualify, the person may be:
 - Attending school under a special education plan approved by the local Individual Educational Planning Committee (IEPC); **or**
 - Not attending under an IEPC approved plan but has been certified as a special education student **and** is attending a school program leading to a high school diploma or its equivalent, **and** is under age 26. The program does not have to be designated as special education as long as the person has been certified as a special education student. Eligibility on this basis continues until the person completes the high school program or reaches age 26, whichever is earlier.
- Refugee or asylee who lost eligibility for SSI due to exceeding the maximum time limit.

Petitioner was provided with SDA. As explained in BEM 270 (4/1/16) p. 1, a condition of SDA eligibility is that “individuals must apply for any state and/or federal benefits for which they may be eligible.” “Refusal of a program group member to pursue a potential benefit results in group ineligibility.” RSDI are potential benefits for a person who claims illness or injury prevents him from working for at least 12 months.

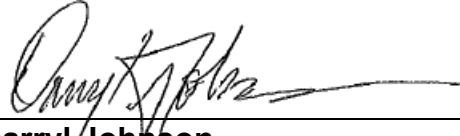
Additional guidance is found in BAM 815 (1/1/17). If the SSA finds that a client is not disabled, that supersedes any determination of disability that might have been made by the Department. Once Petitioner was found by the SSA not to be disabled, that finding supersedes any contrary decision that the Department might have made. To put it another way, if the SSA says a recipient is not disabled, then the Department cannot find him to be disabled.

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 acted in accordance with Department policy when it closed Petitioner’s SDA.

Accordingly, the Department's decision is **AFFIRMED**.

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]

Petitioner

[REDACTED]