



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 25, 2017
MAHS Docket No.: 17-003532
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present at the hearing; and her daughter/witness, [REDACTED], was also present at the hearing. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) program benefits effective [REDACTED]?

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 recipient of SDA benefits.
2. On [REDACTED], Petitioner submitted her Redetermination (DHS-1010) to review her eligibility for SDA and Medical Assistance (MA) benefits. Exhibit A, pp. 4-11.
3. On [REDACTED], the Department sent Petitioner an Appointment Notice (DHS-170) informing her to attend an in-person appointment on [REDACTED] at [REDACTED] with her specialist in order to review her Redetermination. Exhibit A, p. 12.

4. Petitioner failed to attend her in-person interview.
5. On [REDACTED], the Department sent Petitioner a Medical Determination Verification Checklist (“medical packet”) in order to review her ongoing disability and the medical packet was due back by [REDACTED]. See Exhibit A, pp. 13 and 15-30.
6. Petitioner failed to submit the requested medical packet before the due date.
7. Petitioner alleged she never received the medical packet dated [REDACTED].
8. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her Cash (SDA) benefits would close effective [REDACTED], because she failed to return documentation to complete the disability determination. Exhibit A, pp. 2-3.
9. On [REDACTED], Petitioner filed a hearing request, protesting the Department’s action. Exhibit A, pp. 31-32.

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.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2015), p. 1.

For SDA cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (January 2017), p. 7. The Department sends a negative action notice when 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 and see also BAM 210 (January 2017), p. 16, (Verifications deadline for Redetermination review).

Additionally, BAM 815 explains how 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 (January 2017), 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. BAM 815, p. 2. The

Department denies the application or place an approved program into negative action for failure to provide required verifications. BAM 815, p. 2.

The Department provides a multi-step process for medical determination reviews. See BAM 815, pp. 5-6. For step 5, the Department completes a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications required:

- DHS-49-FR.
- DHS-1555.
- DHS-3975, Reimbursement Authorization (for state-funded FIP/SDA only).
- Verification of SSA application/appeal.

BAM 815, pp. 5-6. A further review of the steps indicated that the Medical-Social Questionnaire Update (DHS-49-FR) and Authorization to Release Protected Health Information (DHS-1555) are mandatory forms that must be completed. BAM 815, p. 5.

In this case, Petitioner submitted her Redetermination on [REDACTED], to review her eligibility for SDA and MA benefits. Exhibit A, pp. 4-11. Then, on [REDACTED] the Department sent Petitioner an Appointment Notice (DHS-170) informing her to attend an in-person appointment on [REDACTED], at [REDACTED] with her specialist in order to review her Redetermination. Exhibit A, p. 12. However, Petitioner failed to attend her in-person interview. Moreover, on [REDACTED], the Department sent Petitioner a medical packet in order to review her ongoing SDA disability and the medical packet was due back by [REDACTED]. See Exhibit A, pp. 13 and 15-30. Petitioner failed to submit her medical pack by the due date. See Exhibit A, p. 14, (Petitioner's Electronic Case File). As such, the Department closed her SDA benefits due to her failure to submit the medical packet. Exhibit A, pp. 2-3.

Petitioner testified that she never received the medical packet when it was issued back on [REDACTED]. Petitioner testified that she has had issues in the past receiving third-party mail and correspondence from the Department. Petitioner testified that she does receive other neighbor's mail. Petitioner testified that she has not notified the local United States Postal Service (USPS) of the problem. Petitioner reviewed the medical packet and acknowledged that it was sent to her proper address.

Additionally, Petitioner's witness, her daughter, confirmed that Petitioner does have issues in receiving mail, including the Department's correspondence. The witness testified that she does not reside with her mother, but has personally witnessed Petitioner having mailing issues.

In response, the Department testified that the medical packet was mailed to the proper address, it was mailed via central print, and it was not returned back as undeliverable from the United States Postal Service (USPS).

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it closed Petitioner's SDA benefits effective [REDACTED]. It is found that Petitioner rebutted the presumption of proper mailing. The undersigned finds Petitioner's testimony credible that she never received the medical packet. Petitioner's credibility is supported by the fact that she had a witness, her daughter, who testified that she has personally witnessed Petitioner having difficulty in receiving mail. The witness's testimony bolsters Petitioner's argument that she did not receive the medical packet. As such, because Petitioner rebutted the presumption of proper mailing that she never received the medical packet in [REDACTED], she was, therefore, unable to submit the form by the due date. Accordingly, the Department improperly closed Petitioner's SDA benefits effective [REDACTED], in accordance with Department policy. BAM 130, p. 7; BAM 210, p. 16; and BAM 815, pp. 1-11.

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 improperly closed Petitioner's SDA benefits effective [REDACTED], ongoing.

Accordingly, the Department's SDA 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. Reinstate Petitioner's SDA benefits effective [REDACTED];
2. Redetermine her SDA eligibility for [REDACTED], ongoing;
3. Issue supplements to Petitioner for any SDA benefits she was eligible to receive but did not from [REDACTED], ongoing; and
4. Notify Petitioner of its decision.

EJF/jaf



Eric J. Feldman
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]