



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 27, 2018
MAHS Docket No.: 17-016989
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, an administrative hearing was initiated from Lansing, Michigan hearing was held on 2/22/18. The Petitioner personally appeared and testified. The Department of Health and Human Services (Respondent or Department) was represented by Kathleen Hopper, Assistance Payments Supervisor, and Karla Jefferies, Family Independent Specialist.

ISSUE

Did the Department properly reduce Petitioner's State Supplemental Security Income (SSI) Payment (SSP)?

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 receives SSI and RSDI from the federal Social Security Administration (SSA).
2. Prior to the action herein, Petitioner was regularly receiving a quarterly \$42.00 SSP from the State of Michigan.
3. On 11/22/17, the State of Michigan issued a Notice of State SSI Payment Change reducing Petitioner's SSP payment effective 11/22/17, on the grounds that

Petitioner did not receive a regular first of the month SSI payment, scheduled to be issued on 12/15/17.

4. On 12/20/17, Petitioner filed a hearing request.
5. At the administrative hearing, the Respondent's witnesses', Kathleen Hopper, Assistance Payments Supervisor, and Karla Jefferies, Family Independent Specialist, testified that they had no idea why Petitioner's SSP was being reduced, what the policy was, had no evidence from SSA regarding a reduction, and could not testify as to what or why the State of Michigan took the action.

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 SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10. Departmental policy is found in BEM 660.

Under the statute, case law and policy, Petitioner has the burden of proof by a preponderance of evidence. In this case, unrefuted evidence is that Petitioner is an SSI recipient. Under BEM 660, Petitioner is eligible for the SSP payment. As these facts are unrefuted, Petitioner met her burden of proof to establish that she is eligible for full SSP payments. As such, the burden shift to the Respondent to establish why Petitioner is not being paid her full SSP payment.

Here, Respondent failed to testify or bring forth evidence to establish the grounds on which the Respondent failed to pay Petitioner her full SSP payment. Respondent's best argument was that it was due to the notice issued by the Respondent. At the administrative hearing, Petitioner had some information regarding a change in her first of the month payments beginning in March 2018. However, this information was irrelevant as the negative action herein deals with the last quarter of 2017.

In addition, both Petitioner and a Department representative attempted to call a phone number listed on the Notice of Case Action to make inquiries to no avail.

Respondent failed to present evidence that the SSA actually did not issue a first of the month benefit. In addition, Respondent is required under law and procedure to establish that the action was consistent with policy and not contrary to law. Failure to do so is reversible error.

Here, the Department failed to present any evidence to show that Petitioner did not receive a first of the month payment (regardless of the reason), and that the action taken is consistent with policy allowing for the same. In fact, here the APS and FIS combined 45 years of employment indicates by way of their own testimony that they have never encountered a reduction in SSP payments such as indicated by the facts here.

Based on the record established in this matter, and the applicable law, the Agency's action must be reversed.

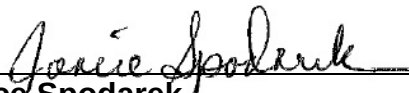
DECISION AND ORDER

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. Reinstated Petitioner's SSP to the full amount for the fourth 2017 quarter.
2. Issue any supplemental benefits to Petitioner to which she is entitled.

JS/hb



Janice Spodarek
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

Renee Swiercz
51111 Woodward Ave 5th Floor
Pontiac, MI 48342

Oakland County (District 4), DHHS

BSC4 via electronic mail

M. Best via electronic mail

EQADHShearings via electronic mail

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]