



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: January 11, 2018  
MAHS Docket No.: 17-014168  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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, an in-person hearing was held on January 2, 2018, from Clinton Township, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

**ISSUE**

The issue is whether MDHHS properly terminated Petitioner's State Disability Assistance (SDA) eligibility.

**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 SDA recipient.
2. On an unspecified date, Petitioner applied for Supplemental Security Income (SSI) benefits from the Social Security Administration (SSA).
3. On September 20, 2017, SSA denied Petitioner's claim of SSI based on a determination that Petitioner was not disabled.
4. SSA's denial of disability was based, in part, that Petitioner had various impairments which exceeded one year.

5. On October 20, 2017, MDHHS terminated Petitioner's SDA eligibility based on SSA's denial of disability.
6. Petitioner did not experience a worsening or new disability between SSA's denial of disability and MDHHS' termination of SDA eligibility.
7. On October 25, 2017, Petitioner requested a hearing to dispute the termination of SDA.

### **CONCLUSIONS OF LAW**

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

SDA provides financial assistance to disabled adults who are not eligible for Family Independence Program (FIP) benefits. BEM 100 (July 2015), p. 5. The goal of the SDA program is to provide financial assistance to meet a disabled person's basic personal and shelter needs. *Id.*

Petitioner's hearing request indicated a dispute of a denial of SDA benefits. Petitioner's testimony conceded that she actually disputed a termination of SDA benefits beginning December 2017. MDHHS was not confused by Petitioner's hearing request and prepared for a dispute of a termination of Petitioner's SDA eligibility. As MDHHS was not adversely affected by Petitioner's written hearing request, the hearing proceeded to evaluate Petitioner's dispute of SDA eligibility termination.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (July 2015), p. 1. A person is disabled for SDA purposes if he [or she]:

- Receives other specified disability-related benefits or services..., or
- Resides in a qualified Special Living Arrangement 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; [or]
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

*Id.*, pp. 1-2.

Generally, state agencies such as MDHHS must use the same definition of disability as used under SSI regulations (see 42 CFR 435.540(a)). Disability is federally defined as the inability to do any substantial gainful activity (SGA) by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months. 20 CFR 416.905. MDHHS adopted a functionally identical definition of disability

(see BEM 260 (July 2015), p. 10). The definition of SDA disability is identical except that only a 90-day period of disability is required.

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 4-7) dated October 20, 2017, which notified Petitioner of a termination of SDA benefits beginning December 2017. The stated basis for termination was that Petitioner was not among the qualifying SDA eligibility criteria, including that Petitioner was not disabled. Petitioner only disputed the determination that she was not disabled.

Once an individual has been found disabled for purposes of disability-related benefits, continued entitlement is periodically reviewed in order to make a current determination or decision as to whether disability remains in accordance with the medical improvement review standard. 20 CFR 416.993(a); 20 CFR 416.994.

In evaluating a claim for ongoing disability benefits, federal regulations require a sequential evaluation process be utilized. 20 CFR 416.994(b)(5). The review may cease and benefits continued if sufficient evidence supports a finding that an individual is still unable to engage in substantial gainful activity. *Id.* Prior to deciding if an individual's disability has ended, the department will develop, along with the petitioner's cooperation, a complete medical history covering at least the 12 months preceding the date the individual signed a request seeking continuing disability benefits. 20 CFR 416.993(b). The department may order a consultative examination to determine whether or not the disability continues. 20 CFR 416.993(c).

MDHHS presented a Medical-Social Eligibility Certification (Exhibit 1, pp. 9-17). A summary of Petitioner's medical records was provided. It was noted that Petitioner was approved for SDA benefits and a review month of August 2015 was scheduled. It was also noted that SSA denied Petitioner's claim of disability in September 2017.

MDHHS provided a SSA decision (Exhibit 1, pp. 722-744) dated September 20, 2017. The decision was noted to be "unfavorable" for Petitioner's claim of disability. It was noted that the decision only addressed Petitioner's claim of disability from October 10, 2015, through the date of SSA decision. The stated basis for denial was that Petitioner was not disabled.

Eligibility for MA based on disability or blindness does not exist once SSA's determination is final. BEM 260 (July 2015) p. 3. SSA's determination that disability or blindness does **not** exist for SSI is **final** for MA if:

- The determination was made after January 1, 1990, **and**
- No further appeals may be made at SSA...; **or**
- The client failed to file an appeal at any step within SSA's 60 day limit, **and**
- The client is **not** claiming:
  - A totally different disabling condition than the condition SSA based its determination on, **or**

- An additional impairment(s) or change or deterioration in his condition that SSA has **not** made a determination on.

*Id.*, pp. 3-4.

The above-stated policy only renders SSA decisions binding on MDHHS in certain circumstances. A discussion of the circumstances when such decisions are binding is appropriate.

A SSA denial of disability must be “final”. One criterion of a final decision is that a petitioner exhausted all appeals at SSA. Petitioner testimony conceded she did not appeal SSA’s decision dated September 20, 2017, and that she instead reapplied for SSA benefits. Petitioner’s testimony is sufficient verification that SSA’s decision was “final” concerning her claim of disability through September 2017.

Ending benefit eligibility based on an unfavorable SSA determination requires that the SSA determination was a denial of SSI benefits (opposed to Retirement, Survivors, Disability Insurance). The presented SSA decision verified that Petitioner’s claim of disability was a denial of SSI benefits (see Exhibit 1, p. 737).

Policy allowing MDHHS to defer to unfavorable SSA decisions specifically applies to Medical Assistance (MA) determinations (i.e. Medicaid). SDA eligibility is not mentioned. Consideration was given to rejecting SSA’s decision as binding because Petitioner only seeks SDA eligibility.

The only known rational time to distinguish between MA and SDA eligibility for purposes of applying SSA findings of disability is when SSA denies disability based on a finding that a claimant’s impairments did not last 12 months. In such a case, an unfavorable finding of disability would not necessarily apply to SDA because a shorter timeframe (90 days) of disability is required for eligibility.

SSA’s unfavorable decision categorized Petitioner’s various ailments as severe or non-severe. A “severe” impairment, by definition, characterizes an impairment as lasting 12 months. By finding that Petitioner had severe impairments, it can be concluded that SSA did not deny Petitioner’s claim due to the duration of the impairments.

SSA also found that some of Petitioner’s impairments were not severe; this could imply that some of Petitioner’s impairments were found to not meet the durational requirements of disability. SSA found that Petitioner’s claims of impairments related to asthma, coronary arteriosclerosis, cardiac catheterization, anemia, atypical chest pain treatment, pelvic pain, dizziness, dyslipidemia, hypertension, gastritis, heart valve regurgitation, GERD, sleep apnea, and others, caused Petitioner “no more than minimal limitations” in the ability to perform work functions (see Exhibit 1, p. 729). SSA’s statement strongly implies that Petitioner’s claimed impairments were denied due to their degree, and not due to their duration.

Based on presented evidence, it is found that SSA did not deny Petitioner's claim of disability based on the duration of Petitioner's impairments. Based on this finding, it is appropriate to apply MDHHS policy allowing SSA disability decisions to be binding when final.

Consideration must be given to whether SSA's denial of disability is obsolete due to any changes in Petitioner's medical conditions. Generally, a final determination of disability by SSA is less likely to be binding on MDHHS when the determinations are separated by more time.

SSA's denial of Petitioner's claim was issued on September 20, 2017. MDHHS' termination of SDA occurred on October 20, 2017. The month lapse in time between denials is a relatively small timeframe and very indicative that Petitioner had no particular change in conditions suggestive that a new determination is required. Petitioner testimony also conceded that her SDA eligibility was based upon the same conditions on which her SSI claim of disability was based.


For the record, it should be noted that Petitioner appeared for the hearing requiring use of a walker and wearing bilateral hand splints. Petitioner required the use of a caretaker throughout the hearing to help her stand and sit. A document from Petitioner's physician (see Exhibit A, pp. 5-8) noted that Petitioner was limited to short periods of standing or sitting and incapable of performing low stress employment. Petitioner's hearing appearance and documentation was indicative of disability. Based on the determination of disability by SSA, evidence supportive of finding disability need not be considered.

It is found that SSA's denial of disability is binding on Petitioner's ongoing SDA eligibility. Accordingly, Petitioner is not disabled. As Petitioner presented no other qualifications for SDA eligibility, it is found that MDHHS properly terminated Petitioner's SDA eligibility.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's SDA eligibility, effective December 2017. The actions taken by MDHHS are **AFFIRMED**.

CG/

  
\_\_\_\_\_  
**Christian Gardocki**  
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]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]