



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 2, 2018
MAHS Docket No.: 18-005855
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, a telephone conference hearing was held on July 31, 2018, from Lansing, Michigan. The Petitioner appeared and testified. The Department of Health and Human Services (Department) was represented by Shannon Bruton, APW and Rosiland Boyle, APS.

ISSUE

Did the Department properly stop Petitioner's SSP payments?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been a beneficiary of the SSI and SSP programs.
2. On May 18, 2018 Petitioner received a Notice of State SSI Payment Change from the State of Michigan DHHS stating in part: "The SSA notified the DHHS office that you did not receive a regular first of the month SSI payment for 3 months." Ex A.8.
3. The Department testified that Petitioner did not receive a 4th quarter SSP payment in 2017, and in 2018 only received a \$ [REDACTED] payment for January 2018. Evidence submitted by the Department was contrary to its testimony.
4. Petitioner received a regular first of the month payment for all months since October 2017, to the present, except for February 2018. Petitioner Ex. 1
5. Petitioner's hearing request was filed May 31, 2018.

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.

Specific Department policy is found in BEM 660. That policy states in part that SSP are supplemental payments paid by the State of Michigan to recipients of SSI. However, "Payments are made for only those months the recipient received a regular first of the month federal benefit." BEM 660.

The hearing in this matter was quite long consisting of much testimony which changed the issue and facts as the testimony developed. In part, this was due to the Department witnesses indicating that it was "Lansing" and a "computer" took the action herein, and not the local office, and that the local office and the witnesses at the administrative hearing were not privy to evidence used in taking this action. At the same time, the Department's testimony at times contradicted its own evidence. Specifically, the Department testified that the issue was that Petitioner did not receive a 2017 \$ [REDACTED] 2017 4th quarter payment. However, the Department's SOLQ evidence is contrary, showing that in fact, Petitioner received a \$ [REDACTED] 4th quarter payment.

Petitioner on the other hand went to SSA in preparation for this hearing and submitted evidence of SSI payments in 2017 and 2018. Petitioner was unable to fully prepare for this hearing as the reason stated in the DHS-430 notice failed to state the action with any specificity, and whether Petitioner's SSP payment was being suspended indefinitely, only for the 'last quarter of 2017' as the local office interpreted it or suspended only for 1 month out of 6 as the SOLQ seemed to indicate. Or, as could reasonably be read from the notice, closed indefinitely.

Based on what Petitioner was informed took place in this matter, this ALJ finds that Petitioner met his burden of proof based on the documents he gathered from the SSA pursuant to the notice in preparation for the administrative hearing. Here, the Department failed to submit the purported letter to which it stated was used to take the action but which the local office did was not given a copy of. As such, Petitioner did not have an opportunity to examine this 'purported letter' the Department testified probably existed that was sent to Lansing, but which Lansing failed to send to the local office for the hearing. This violates Petitioner's right to examine and cross examine evidence used in taking the action and cannot be given any weight under general rules of evidence and due process.

Having met his burden, the burden then shifts to the Department to rebut. The Department's documentation in this matter was not just insufficient to establish what was asserted but in fact contrary to the testimony. As such, the record in this matter does not support the action, and thus, must be reversed.

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 present credible or reliable evidence that it acted in accordance with Department policy when it sent a letter stating that Petitioner's quarterly State SSI payment has been cancelled. However, the record was so inconsistent it is unclear what exactly was done. As such, this ALJ finds and orders:

- 1) That the record indicates that Petitioner did get his 4th quarter 2017 payment, despite the Department's testimony that he did not. Thus, if Petitioner did not receive that payment, the Department is ordered to issue to Petitioner a \$ [REDACTED] last quarter 2017 payment.
- 2) Petitioner is not eligible for a monthly \$ [REDACTED] SSP payment for February 2018 by his own admission as it was returned from bank and not directly deposited on February 1, 2018 (despite being deposited on February 2, 2018). As such, Petitioner did not meet the policy requirements of having received a regular, first of the month payment.
- 3) Petitioner is eligible for his SSP payment of \$ [REDACTED] per month from January 2018 through July 2018, except for February 2018. The Department is ordered to review if Petitioner received these payments, and if not, issue supplemental SSP payments.
- 4) The Department is ordered to reinstate Petitioner's SSP eligibility, if closed, and keep those quarterly payments continuing, if otherwise eligible.

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) That the record indicates that Petitioner did get his 4th quarter 2017 payment, despite the Department's testimony that he did not. Thus, if Petitioner did not receive that payment, the Department is ordered to issue to Petitioner a \$ [REDACTED] last quarter 2017 payment.
- 2) Petitioner is not eligible for a monthly \$ [REDACTED] SSP payment for February 2018 by his own admission as it was returned from bank and not directly deposited on February 1, 2018 (despite being deposited on February 2, 2018).

3) Petitioner is eligible for his SSP payment of \$ [REDACTED] per month from January 2018 through July 2018, except for February 2018. The Department is ordered to review if Petitioner received these payments, and if not, issue supplemental SSP payments.

4) The Department is ordered to reinstate Petitioner's SSP eligibility, if closed, and keep those quarterly payments continuing, if otherwise eligible.

IT IS SO ORDERED.

JS/nr



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) 763-0155; 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

Lori Duda
30755 Montpelier Drive
Madison Heights, MI
48071

Oakland 2 County DHHS- via electronic
mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI
[REDACTED]