



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 3, 2018
MAHS Docket No.: 18-003439
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; 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 hearing was held on May 1, 2018, from Lansing, Michigan. Petitioner was present for the hearing and represented herself. [REDACTED] Petitioner's father, testified as a witness for Petitioner. The Department of Health and Human Services (Department) was represented by Marlon Dorsey, Family Independence Manager; and Grisel Pena, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Cash Assistance (State Disability Assistance (SDA)) applications?

FINDINGS OF FACT

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

1. On [REDACTED] 2017, Petitioner applied for SDA benefits. [Exhibit A, pp. 27-38.]
2. In the application, Petitioner reported she was homeless, but she provided a mailing address. [Exhibit A, p. 28.]
3. On December 20, 2017, the Department sent Petitioner a Medical Determination Verification Checklist ("medical packet"), which was due back by January 2, 2018.

The medical packet did not indicate which documents she had to submit by the due date. [Exhibit A, pp. 39-40.]

4. On January 29, 2018, the Department sent Petitioner a Notice of Case Action notifying her that her SDA application was denied effective January 1, 2018, because she failed to submit verification of disability, verification of unearned income payment, and verification that her disability conforms to Social Security Administration (SSA) standards. [Exhibit A, pp. 44-45.]
5. On [REDACTED] 2018, Petitioner submitted an application for SDA benefits. [Exhibit A, pp. 46-56.]
6. In the application, Petitioner reported that she resided in a household. [Exhibit A, p. 47.]
7. On February 15, 2018, the Department sent Petitioner a Verification Checklist, which requested verification that her disability conforms to SSA standards, verification of her disability, verification of vehicle ownership, verification of donation or contribution from an individual outside the group, and verification of residential address. The verifications were due back by February 26, 2018. [Exhibit A, pp. 57-58.]
8. On March 6, 2018, the Department sent Petitioner a Notice of Case Action notifying her that her SDA application was denied effective March 16, 2018, because she failed to submit verification of her residential address. [Exhibit A, pp. 64-65.]
9. On March 26, 2018, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-3.]

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The

Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Preliminary matters

First, Petitioner indicated in her hearing request that she also disputed her FAP and MA benefits. [Exhibit A, p. 2.] However, Petitioner testified she is no longer disputed her FAP and MA benefits. As such, Petitioner's hearing request concerning her FAP and MA benefits is DISMISSED.

Second, Petitioner also disputed the denial of her SER application dated [REDACTED] 2017. [Exhibit A, pp. 2 and 4.] However, the undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address the denial of Petitioner's SER application. On September 20, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her request for heat deposit/reconnect fees, moving expenses, security deposit, and rent to relocate was denied. [Exhibit A, pp. 76-78.] Policy states that the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (April 2017), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. Here, the Department's notice was dated September 20, 2017. [Exhibit A, p. 76.] However, Petitioner did not file a request for hearing to contest the closure of the December 2017 benefits until March 26, 2018. [Exhibit A, pp. 2-3.] As a result, Petitioner's hearing request was not timely filed within 90 days of the notice and therefore, Petitioner's hearing request concerning the SER denial is DISMISSED for lack of jurisdiction. See BAM 600, p. 6.

Third, Petitioner also testified that she sought to dispute her SDA benefits dating back to August 2017. However, for the same reasons as stated above, the undersigned lacks the jurisdiction to address her SDA benefits dating back to August 2017. See BAM 600, pp. 1-6. Nevertheless, the undersigned does have the jurisdiction to address the denial of Petitioner's SDA applications dated [REDACTED] 2017, and [REDACTED] 2018, because her hearing request was timely filed within the denial of both of these applications. The undersigned will address both of these application denials below.

Fourth, Petitioner submitted another SDA application on [REDACTED] 2018. [Exhibit A, pp. 1 and 4.] However, it was discovered that this application was denied subsequent to Petitioner's hearing request. As a result, the undersigned lacks the jurisdiction to address the denial of Petitioner's SDA application dated [REDACTED] 2018, because the denial occurred subsequent to the hearing request. See BAM 600 (January 2018), pp. 1-6. But, Petitioner can attempt to submit another hearing request disputing the denial of her SDA application dated [REDACTED] 2018.

SDA application dated [REDACTED] 2017

On [REDACTED] 2017, Petitioner applied for SDA benefits. [Exhibit A, pp. 27-38.] In the application, Petitioner reported she was homeless, but she provided a mailing address. [Exhibit A, p. 28.]

On December 20, 2017, the Department sent Petitioner a medical packet, which was due back by January 2, 2018. [Exhibit A, pp. 39-40.] However, the Department acknowledged that the medical packet did not indicate which documents she had to submit by the due date. [Exhibit A, pp. 39-40.] Nevertheless, the Department argued that Petitioner failed to submit the medical packet by the due date. In fact, the Department presented an Electronic Case File (ECF) document(s) showing it did not receive any of the documents requested by the due date. [Exhibit A, pp. 9-10 and 43.] As a result, the Department denied Petitioner's SDA application due to her failure to submit the medical packet by the due date. [Exhibit A, pp. 44-45.]

In response, Petitioner argued that she believed she submitted the medical packet by the due date of January 2, 2018. Petitioner also testified that the Department should have already had the documents requested as she has provided them in previous applications.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), 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 (April 2017), p. 7. The Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. 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. Note, for SDA, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist may grant an extension to the VCL due date. BAM 130, p. 7.

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 applications. See BAM 815, pp. 2-5. For step 5, the Department completes a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications required:

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

BAM 815, p. 4. A further review of the steps indicated that the Medical-Social Questionnaire form (DHS-49-F) and Authorization to Release Protected Health Information (DHS-1555) are mandatory forms that must be completed. BAM 815, p. 4.

Also, at program application or request for disability deferral, clients must apply for or appeal benefits through the Social Security Administration (SSA) if claiming disability and/or blindness. BAM 815, pp. 1-2. This is a condition of program eligibility. BAM 815, p. 2.

Based on the foregoing information and evidence, the Department did not act in accordance with Department policy when it denied Petitioner's SDA application effective January 1, 2018. Pursuant to the above policy, the Department tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Here, the Department did not indicate which medical records Petitioner had to submit by the due date in the verification checklist dated December 20, 2017. [Exhibit A, pp. 39-40.] For example, if the Department needed Petitioner to submit a Medical Examination Report (DHS-0049) by the due date, then a check mark would have appeared by that document. [Exhibit A, pp. 39-40.] However, there were no check marks or indications throughout the verification form as to which documents Petitioner had to submit by the due date. Because the Department failed to tell Petitioner what verification it required her to submit, it improperly denied her SDA application in accordance with Department policy. BAM 130, p. 3. As such, the Department is ordered to re-register and reprocess Petitioner's SDA application dated [REDACTED] 2017.

SDA application dated [REDACTED] 2018

On [REDACTED] 2018, Petitioner submitted an application for SDA benefits. [Exhibit A, pp. 46-56.] In the application, Petitioner reported that she resided in a household. [Exhibit A, p. 47.]

On February 15, 2018, the Department sent Petitioner a Verification Checklist, which requested verification that her disability conforms to SSA standards, verification of her disability, verification of vehicle ownership, verification of donation or contribution from an individual outside the group, and verification of residential address. [Exhibit A, pp. 57-58.] The verifications were due back by February 26, 2018. [Exhibit A, pp. 57-58.] The Department argued that Petitioner failed to submit the medical packet by the due date. In fact, the Department presented an Electronic Case File (ECF) document(s) showing it did not receive any of the documents requested by the due date. [Exhibit A, pp. 9-10 and 43.] As a result, the Department denied Petitioner's SDA application. [Exhibit A, pp. 64-65.] It should be noted that the denial reason for the application was due to her failure to submit verification of her residential address. [Exhibit A, pp. 64-65.] However, the Department testified that the actual denial reason was based on her failure to submit the medical packet.

In response, Petitioner testified that she was not sure if she received the Verification Checklist dated February 15, 2018. [Exhibit A, pp. 57-58.] A review of Petitioner's ECF document does show returned mail being scanned into the Department's system on February 26, 2018; February 28, 2018, and March 5, 2018. [Exhibit A, p. 9.] But, it is unclear which documents were returned mail from the USPS.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220 (January 2018), p. 1. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 2. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 2. There are two types of written notice: **adequate** and **timely**. BAM 220, p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220, p. 3. Adequate notice is given for an approval or denial of an application. BAM 220, p. 3.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested

BAM 220, pp. 2-3.

Pursuant to the above policy, the Department did not act in accordance with Department policy when it denied Petitioner's SDA application effective March 16, 2018. The undersigned finds that the Department did not provide the proper denial reasons for Petitioner's application denial. As stated above, the Department indicated that the actual denial reason was based on Petitioner's failure to submit the medical packet and not her failure to submit verification of her residential address. [Exhibit A, pp. 64-65.] However, nowhere in the Notice of Case Action dated March 6, 2018, does it state Petitioner failed to submit the medical packet. Because the Department failed to send Petitioner a proper denial notice, it improperly denied her SDA application in accordance with Department policy. BAM 220, pp. 1-3. As such, the Department is ordered to re-register and reprocess Petitioner's SDA application dated [REDACTED] 2018.

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 (i) the Department did not act in accordance with Department policy when it denied Petitioner's SDA application effective January 1, 2018; and (ii) the Department did not act in accordance with Department policy when it denied Petitioner's SDA application effective March 16, 2018.


Accordingly, the Department's SDA decisions are **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. Initiate re-registration and reprocessing of Petitioner's SDA application dated [REDACTED] 2017;
2. Issue supplements to Petitioner for any SDA benefits she was eligible to receive but did not from January 1, 2018, ongoing;
3. Initiate re-registration and reprocessing of Petitioner's SDA application dated [REDACTED] 2018;
4. Issue supplements to Petitioner for any SDA benefits she was eligible to receive but did not from March 16, 2018, ongoing; and
5. Notify Petitioner of its decision(s).

IT IS ALSO ORDERED that Petitioner's hearing request concerning the FAP benefits; MA benefits; SDA benefits dating back to August 2017; SDA application dated [REDACTED] 2018; and SER application is **DISMISSED** for lack of jurisdiction.

EF/hb



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

DHHS

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI 49507

Kent County (District 1), DHHS

BSC3 via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

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E. Holzhausen via electronic mail

Petitioner

[REDACTED]
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