



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

Date Mailed: August 3, 2018
MAHS Docket No.: 18-005248
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 30, 2018, from Detroit, Michigan. Petitioner was present with witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) benefit case?

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. In [REDACTED] 2015, Petitioner's application for Social Security benefits was denied by the Social Security Administration (SSA).
3. In October 2015, Petitioner appealed the SSA's determination that she was not entitled to Social Security benefits.
4. In October 2017, the Department conducted a review of Petitioner's SDA benefit case.

5. On October 26, 2017, Disability Determination Services (DDS) issued a decision stating Petitioner did not timely file an appeal with SSA (Exhibit B).
6. On May 14, 2018, the Department sent Petitioner a Health Care Coverage Determination Notice informing Petitioner that her SDA benefit case was closing effective June 1, 2018, ongoing.
7. On May 21, 2018, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner was an ongoing SDA recipient. In 2015, Petitioner's appeal for Social Security benefits had been denied. Petitioner appealed the SSA's decision. At some point in 2017, the SSA denied Petitioner's appeal. In 2017, the Department conducted a review of Petitioner's SDA benefit case.

Clients who receive state-funded FIP or SDA who meet potential eligibility for Supplemental Security Income (SSI) SSI or have a DDS decision that indicates they meet the criteria for MA based on blindness or disability are required to pursue SSI. BEM 271 (January 2016), p. 1. The Department must ensure that the client meets the time limits required by policy for the following actions, if required: (i) SSI application; (ii) SSI reconsideration request (iii) SSI hearing request and (iv) SSI appeals council review. BEM 271, pp. 2-3. The Department monitors and assists clients through the SSI application and appeal process. BEM 271, pp. 3-9. For an appeals council review, the client must file a request for the review within 60 days of the SSI hearing decision date. BEM 271, p. 8. The Department will send the client a DHS-1551 Notice to Apply, a DHS-1552 Verification of Application for SSI from SSA marked "appeal," and a return envelope. BEM 271, p. 8. The Department will then verify that the client has submitted the appeals council review with 10 days of the date the DHS-1551 is sent to the client. BEM 271, p. 8. SDA clients receiving or those who have been found eligible for disability-related MA must comply with the requirements listed in policy. BEM 271, p. 1. These clients must also cooperate with all SSA requirements and procedures when

applying for SSI benefits. BEM 271, p. 1. Failure to comply as required results in group ineligibility for SDA. BEM 271, p. 1.

The Department testified that Petitioner's 2015 appeal had been denied by the SSA in 2017. The Department stated that the final step required by Petitioner was to request an appeals council review. The Department stated that Petitioner had until September 18, 2017 to request the appeals council review. The Department testified that the DDS decision issued on October 26, 2017 indicated that Petitioner had not completed the appeals process, and therefore, her SDA benefit case was closed effective June 1, 2018, ongoing. The Department was unsure if the DHS-1551 or DHS-1552 were sent to Petitioner.

It is evident from BEM 271 that the Department must assist clients through the SSI application and appeals process. The Department did not provide any evidence that Petitioner was advised she must request an appeals council review by sending her a DHS-1551 and DHS-1552. Petitioner stated she did not receive any documentation from the Department. Therefore, the Department failed to establish that it properly followed policy when closing Petitioner's SDA benefit case.

DECISION AND ORDER

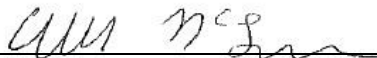
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's SDA benefit case.

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. Redetermine Petitioner's SDA eligibility effective June 1, 2018, ongoing;
2. If Petitioner is eligible for SDA benefits, issue supplements she is entitled to receive as of June 1, 2018, ongoing; and
3. Notify Petitioner of its SDA decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Macomb-12-Hearings
L. Karadsheh
BSC4 – Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

