



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

Date Mailed: November 2, 2018
MAHS Docket No.: 18-008997
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 24, 2018, from Lansing, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Shana Hook, Hearings Facilitator, and Chrishana Wilkins, Eligibility Specialist. During the hearing, one two-page document was offered and admitted as Exhibit A, pp. 1-2.

ISSUE

Did the Department properly determine Petitioner to be ineligible for a State Supplemental Security Income Payment (SSP) for the month of August of 2018?

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 and continuous recipient of Supplemental Security Income (SSI) for all months relevant to this matter.
2. Petitioner also received, on a quarterly basis, SSP from the Department for each month he received SSI until the month of August of 2018.
3. On August 21, 2018, the Department issued to Petitioner a Notice of State SSI Payment Change informing Petitioner that his quarterly SSP was being reduced.

The Notice asserted that Petitioner did not receive a regular first of the month SSI payment. While the Notice did not indicate which month Petitioner allegedly did not receive a regular SSI payment, the Department testified during the hearing that it was for the month of August of 2018. Exhibit A, pp. 1-2.

4. On [REDACTED], 2018, Petitioner submitted to the Department a request for hearing objecting to the Department's reduction of his SSP.

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.

In this case, Petitioner objects to the Department's decision to find him ineligible for an SSP for the month of August of 2018. The Department alleges that Petitioner did not receive a regular first of the month SSI payment in August of 2018. Petitioner credibly testified that he in fact did receive the regular first of the month SSI payment in August of 2018.

SSP is a quarterly payment paid by the State to eligible SSI recipients the last month of each quarter. BEM 660 (January 2017), pp. 1-2. SSP payments are made for only those months the SSI recipient received a regular first of the month federal benefit. BEM 660, p. 1; BAM 600 (October 2015), pp. 29-30. Department policy specifies that these SSI payments are shown on the client's Single Online Query (SOLQ) report as a **"recurring payment dated the first of the month."** BEM 660, p. 1. Policy further provides that SSPs are not issued for retroactive or supplemental federal benefits. BEM 660, p. 1.

On August 21, 2018, the Department issued to Petitioner a Notice of State SSI Payment Change. The Notice informed Petitioner that his quarterly SSP payment had been reduced. The reason given for the reduction is reproduced in its entirety:

The Social Security Administration notified the Michigan Department of Human Services you did not receive a regular first of the month SSI payment for (1,2) months. You must receive the regular first of the month SSI payment to be eligible for a State SSI Payment. The reduced payment is scheduled to be issued on 9/17/2018.

This case comes down to whether or not Petitioner received a regular first of the month SSI payment for the month of August of 2018. If he did, then he should be issued the

SSP for August of 2018. If he did not, then the Department properly declined to issue the SSP for that month. Based on the evidence presented, I find that Petitioner did receive a regular first of the month SSI payment in August of 2018.

At the hearing, the only documentary evidence produced by the Department was a copy of the Notice, which does not even indicate which month a regular payment was not made or why. The Department's conclusion that Petitioner did not receive a regular first of the month August of 2018 SSI payment rested entirely upon the Department's alleged receipt of a document that was not produced during the hearing. The Department witness conceded that Petitioner received regular first of the month payments for July of 2018 and September of 2018 and could not provide any explanation for why Petitioner may not have received a payment in August of 2018. Petitioner, however, credibly testified that he received the regular first of the month SSI payments for each of the months from July of 2018 through September of 2018.

The evidence supporting a finding that a regular first of the month SSI payment was made for August of 2018 greatly outweighs the evidence to the contrary. Petitioner was an ongoing SSI recipient, and both parties stipulate he received the regular SSI payment in each of the months surrounding August of 2018. Petitioner testified that nothing was different for August of 2018, and the Department presented no competent evidence upon which to base a conclusion otherwise. As Petitioner received a regular first of the month SSI payment in August of 2018, the Department failed to follow policy by refusing to issue the SSP for that month.

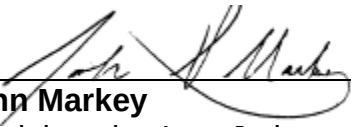
DECISION AND ORDER

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 did not act in accordance with Department policy when it found Petitioner ineligible to receive SSP for the month of August of 2018. 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. Issue Petitioner an SSP supplement for the month of August of 2018 based on Petitioner's receipt of a regular first of the month SSI payment in August of 2018;
2. Issue written notice of any case action(s) in accordance with Department policy.

JM/dh


John Markey
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

Carisa Drake
190 East Michigan
Battle Creek, MI 49016

Calhoun County, DHHS

BSC3 via electronic mail

D. Smith via electronic mail

EQAD via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]