



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: April 1, 2019
MAHS Docket No.: 19-001434
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 March 29, 2019, from Detroit, Michigan. Petitioner was present with his mother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Hearings Coordinator.

ISSUE

Did the Department properly deny Petitioner's application for State Disability Assistance (SDA) benefits?

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 November 5, 2018, Petitioner submitted an application for SDA benefits.
2. On November 7, 2018, a DHHS-1552 Verification of Application or Appeal for SSI/RSDI was sent (Exhibit E).
3. On December 13, 2018, a second DHHS-1552 was sent (Exhibit D).
4. On January 2, 2019, the Department sent Petitioner a Notice of Case Action informing him that his SDA application was denied (Exhibit A).
5. On February 8, 2019, Petitioner submitted a hearing request 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 submitted an application for SDA benefits on November 5, 2018. The Department testified that Petitioner was sent a DHHS-1552 on November 7, 2018, and on December 13, 2018. Both documents state that the forms must be returned to the Department within 10 days.

The Department must ensure that the client meets the time limits required by policy for the following actions, if required: (i) Supplemental Security Income (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. After the SSA denies an application for SSI benefits, the first appeal step is to request a hearing. BEM 271, p. 7. An SSI hearing must be requested within 60 days of the SSI application denial date. BEM 271, p. 7. The Department must first 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. 7. The Department must then verify whether the client has requested an SSI hearing within 10 calendar days of the date the DHS-1551 is sent to the client. BEM 271, p. 7. Acceptable verification of a request for SSI hearing includes any of the following: DHS-1552; Single Online Query (SOLQ); documented telephone contact or written acknowledgment from the SSA. BEM 271, p. 7. If the client is cooperating with the SSI application process, the Department will continue to process the SDA application. If the client is not cooperating the Department will close the SDA benefit case. BEM 271, p. 7.

The Department testified that Respondent did not timely submit verification of his application/appeal of SSI/Retirement, Survivor and Disability Insurance (RSDI) benefits. The Department presented Petitioner's Electronic Case File (ECF) showing the DHHS-1552 was not returned to the Department until January 9, 2019. However, the Department had already sent notice on January 2, 2019, informing Petitioner that his SDA application was denied.

The Department submitted the DHHS-1552 that was sent on November 7, 2018, and on December 13, 2018. Both were addressed to the Social Security Administration (SSA).

The SSA was the party that ultimately returned the verification on January 9, 2019. The Department did not present a DHHS-1552 that was addressed to Petitioner. It is unclear as to whether Petitioner was actually sent a DHHS-1552. Policy specifically states the client must be sent the DHHS-1552. The Department failed to establish that it properly followed policy by sending Petitioner a DHHS-1552, notifying him that he needed to submit verification of his application and/or appeal of SSI/RSDI benefits. Thus, the Department failed to establish that it properly followed policy when it denied Petitioner's SDA application.

DECISION AND ORDER

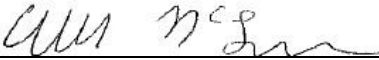
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SDA application.

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. Reinstate and reprocess Petitioner's November 5, 2018, SDA application;
2. If Petitioner is eligible for SDA benefits, issue supplements in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/jaf



Ellen McLemore
Administrative Law Judge
for Robert Gordon, 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

Dawn Tromontine
MDHHS-Macomb-36-Hearings

Petitioner

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