



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

ORLENE HAWKS
DIRECTOR

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Date Mailed: April 25, 2019
MOAHR Docket No.: 19-002744
Agency No.: ██████████
Petitioner: ██████████

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; 42 CFR 431.200 to 431.250. After due notice, a telephone hearing was held on April 17, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by April Nemec, Hearings Facilitator.

ISSUE

Whether the Department properly determined that Petitioner was not disabled for purposes of the State Disability Assistance (SDA) benefit programs?

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 resides in Flint, Michigan.
2. On ██████ ██████ 2018, Petitioner applied for SDA, a cash benefit program based on disability, with the Michigan Department of Health and Human Services.
3. Petitioner is a beneficiary of the Medicaid program and receives medical benefits under the Healthy Michigan Plan (HMP).
4. On December 3, 2018, the Medical Review Team (MRT) denied Petitioner SDA based on disability.
5. On February 22, 2018, the local office issued a denial notice to Petitioner.

6. On March 20, 2019, Petitioner filed a timely hearing request.
7. Due to Petitioner's request for hearing, MRT forwarded the medical evidentiary hearings packet that MRT used in finding that Petitioner was not eligible for the SDA program.
8. At the administrative hearing, the medical packet contained 366 pages and was marked as Exhibit A.366. At the hearing it was discovered that the MRT packet submitted by the Respondent/MRT contains three sets of medical records pertaining to medical records of patients who are not parties to the present case: Exhibits A.50-73; A.208-210; and A.216-218.
9. MRT referred to Petitioner in its denial and conclusions as a male. See page A.35. Petitioner is a female.
10. On February 22, 2018, the Respondent issued a notice of denial based on disability for the SDA program based on the MRT denial.
11. On March 20, 2019, Petitioner filed a timely hearing request.

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), and Department of Health and Human Services Reference Tables Manual (RFT).

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, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days. Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

Procedures for processing a disability application are found the Respondent's BEM and BAM manuals. Specific to the case here, BEM 261 is the Respondent's policy on SDA Disability. That policy states in part:

When the person does not meet one of the criteria under Other Benefits or Services or Special Living Arrangements, follow the instructions in BAM 815, Medical Determination and Disability Determination Service (DDS), Steps for Medical Determination Applications. The DDS will gather and review the medical evidence and either certify or deny the disability claim based on the medical evidence. BEM 261, p. 4.

In this case, DDS prepared a medical packet containing medical evidence that does not apply to Petitioner. It appears that DDS/MRT also relied in part on this medical documentation to the extent that the MRT references Petitioner as a male patient. Exhibit A.35. Petitioner is female. As the MRT analysis is based on medical documentation that is not Petitioner's medical evidence, MRT has thus failed to follow policy in compiling and relying on medical evidence that was at least in part, was not relevant to Petitioner. More importantly, the medical documentation used in denying Petitioner cannot be considered credible or accurate evidence of medical evidence used to show that Petitioner does not meet disability as it is not her medical evidence. Thus, the MRT decision cannot be upheld.

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 MRT denial is not supported by credible and accurate medical evidence pertaining to Petitioner and thus, must be reversed. MRT is ordered to review the medical documentation, re-compile a correct medical evidentiary packet, and make a new determination of SDA disability on behalf of Petitioner. Petitioner's application date of [REDACTED] [REDACTED] 2018, shall be preserved, and Petitioner shall retain a right to hearing based on the new determination for 90 days from the date of the new notice.

DECISION AND ORDER

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Send Petitioner's medical packet back to MRT. MRT is ordered to review the medical packet and remove any and all medical evidence that does not pertain to Petitioner.
2. MRT is ordered to reassemble a correct medical packet on behalf of Petitioner with only Petitioner's medical evidence, and, make a new medical determination based on the correct medical information that pertains to Petitioner only. Following its new determination, MRT shall follow its customary policies and procedures in returning the packet to the local office.
3. Petitioner shall retain her [REDACTED] [REDACTED] 2018, application date.

4. After receiving the new determination from the MRT, the local office is ordered to issue new notice to Petitioner. If that new determination is unfavorable, Petitioner shall retain a right to a hearing for 90 days from the date of the new notice which shall relate back to her [REDACTED] [REDACTED] 2018, application date.

JS/dh



Janice Spodarek
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 Office Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office Of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

