



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: October 11, 2019
MOAHR Docket No.: 19-009334
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 10, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Haysem Hosny, Eligibility Specialist. During the hearing, a seven-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-7.

ISSUE

Did the Department properly deny Petitioner's November 5, 2018 application for State Disability Assistance (SDA)?

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] 2018, Petitioner submitted to the Department an application for SDA benefits. Exhibit A, p. 7.
2. On August 15, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his SDA application was denied. The reason given was that "[v]erification of Disability (BEM 230A, 260, 261, 703, 550), Disability conforms to SSA standards (BEM 260, 550) was not returned for [REDACTED]. Manual Item(s): ERM 101, ERM 103." Exhibit A, pp. 5-6.

3. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of his SDA application.

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. To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), p. 1. A person is disabled for SDA purposes if he or she has AIDS, is certified as unable to work for at least 90 days, resides in a qualified Special Living Arrangement facility, or receives other specified disability-related benefits or services, including those from MRS. BEM 261, p. 1.

In this case, Petitioner objects to the Department's denial of Petitioner's [REDACTED], 2018 application for SDA benefits. The denial was based on the Department's conclusion that Petitioner failed to verify that his asserted disability met the standards of disability set by the Social Security Administration.

During the hearing, the Department representative testified that the August 15, 2019 Notice of Case Action denying Petitioner's SDA application was issued in error as the Department's Medical Review Team (MRT) had not yet made a determination concerning whether Petitioner was disabled. The Department concedes that its August 15, 2019 Notice of Case Action was issued in error. Therefore, it will be reversed.

It should be noted that this reversal does not mean that Petitioner is necessarily eligible or ineligible for SDA benefits. It simply means that the particular decision that was subject of the hearing request giving rise to this matter was not made in accordance with law and Department policy. The remedy for that error is for the Department to process Petitioner's application properly and issue a correct determination, whatever that may be.

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 denied Petitioner's [REDACTED] 2018 application for SDA benefits.

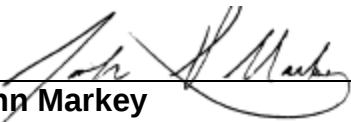
DECISION AND ORDER

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. Reprocess Petitioner's application for SDA benefits;
2. Determine Petitioner's eligibility for SDA benefits according to law and Department policy;
3. If Petitioner is found to be eligible for SDA benefits, ensure that a prompt supplement is issued; and
4. Notify Petitioner in writing of its decisions.

JM/cg


John Markey
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 of 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

Via Email:

MDHHS-Macomb-36-Hearings
B. Sanborn
B. Cabanaw
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]