



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 19, 2019
MOAHR Docket No.: 19-011194
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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, an in-person hearing was held on December 16, 2019, from ████████ Michigan. Petitioner represented herself. Petitioner's husband, ██████████ also appeared at the hearing. The Department of Health and Human Services (Department) was represented by Alice Mosely, Eligibility Specialist.

ISSUE

Did the Department follow the August 21, 2019 Hearing Decision?

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 May 11, 2018, Petitioner submitted an application seeking cash assistance on the basis of a disability.
2. On April 29, 2019, the Disability Determination Service (DDS)/Medical Review Team (MRT) found Petitioner not disabled for purposes of the State Disability Assistance (SDA) program.
3. On May 10, 2019, the Department sent Petitioner a Notice of Case Action denying the application based on DDS/MRT's finding of no disability.

4. On May 10, 2019, the Department received Petitioner's timely written request for hearing.
5. A hearing was held on June 20, 2019.
6. On August 21, 2019, the Administrative Law Judge issued a Hearing Decision which found Petitioner disabled; ordered the Department to issue SDA supplement if otherwise qualified; and notify Petitioner in writing of its decision.
7. Instead of determining whether all other non-medical criteria had been met, the Department sent Petitioner's file back to MRT/DDS for review of evidence already reviewed and decided by the Administrative Law Judge.
8. On October 7, 2019, Petitioner filed a Request for Hearing asserting that the Department failed to follow the August 21, 2019 Hearing Decision.

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 appeared for a hearing held on June 20, 2019, to dispute the finding that she was not disabled. On August 21, 2019, the Administrative Law Judge issued a Hearing Decision which reversed the Department and stated as follows:

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. Reregister and process Petitioner's May 11, 2018, SDA application to determine if all the other non-medical criteria are satisfied, and notify Petitioner of its determination;
2. Supplement Petitioner for lost benefits, if any, that Petitioner was entitled to receive if otherwise eligible and qualified;

3. Review Petitioner's continued eligibility in August 2020.

The Department acknowledged that it received the August 21, 2019 Hearing Decision. In accordance with policy, the local office has **10** days from the date the decision was mailed from MOAHR to complete the DHS-1843, Administrative Hearing Order Certification, which certifies compliance. BAM 600 (July 2019), p. 11.

The Department testified that it reregistered and reprocessed Petitioner's May 11, 2018 application. In addition, the Department testified that it sent Petitioner's file to the Medical Review Team. However, the Administrative Law Judge specifically made a finding that Petitioner was disabled and considered the new evidence in making that finding. As such, the MRT does not need to conduct an additional review. The decision only instructed the Department to reregister and reprocess the application to determine if **all other non-medical criteria are satisfied**. Examples include whether or not Petitioner is over the income limit or whether or not she has applied for benefits with the Social Security Administration. If all other medical criteria are satisfied, the Department is required by the August 21, 2019 hearing decision to issue SDA supplements to Petitioner.

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 failed to follow the August 21, 2019 Hearing Decision by sending Petitioner's file back to the MRT after a disability finding by the Administrative Law Judge.

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. Reregister and process Petitioner's May 11, 2018 SDA application to determine if **all the other non-medical criteria are satisfied**, and notify Petitioner of its determination

- 2. If all other non-medical criteria are satisfied, issue SDA supplements to Petitioner effective May 11, 2018; and
- 3. Notify Petitioner in writing of its decision.

JAM/jaf



Jacquelyn A. McClinton
 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

DHHS (via electronic mail)

Richard Latimore
 MDHHS-██████████-Hearings
 BSC4
 L Karadsheh

Petitioner (via first class mail)

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