



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: July 26, 2019
MOAHR Docket No.: 19-005067
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 June 27, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by John Fankhauser, Eligibility Specialist. During the hearing, a 248-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-248.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) benefits case, effective June 1, 2019?

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 recipient of SDA benefits.
2. In June 2016, Petitioner's application for RSDI benefits was denied by the Social Security Administrative (SSA). In August 2016, Petitioner appealed the SSA's determination that he was not entitled to RSDI benefits. In November 2017, a hearing decision was issued that determined Petitioner was not entitled to RSDI benefits. Petitioner appealed that decision. In February 2018, the SSA appeals council issued an unfavorable decision. Exhibit A, p. 9.

3. On [REDACTED], 2018, Petitioner applied for RSDI benefits again. That application was denied on June 7, 2018. Exhibit A, p. 9.
4. On [REDACTED], 2019, Petitioner submitted to the SSA an application for RSDI and/or SSI benefits.
5. On April 30, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his SDA case was closing, effective June 1, 2019, as a result of Petitioner being allegedly determined not disabled by the SSA. During the hearing, the Department witness clarified the reason for closure as being Petitioner's failure to pursue benefits from the SSA. Exhibit A, pp. 2-5.

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's SDA case was ultimately closed, effective June 1, 2019, because Petitioner allegedly failed to provide to the Department evidence that he was pursuing benefits from the SSA. The Notice of Case Action informing Petitioner of the closure was sent April 30, 2019.

Clients who receive state-funded FIP or SDA who meet potential eligibility for Supplemental Security Income (SSI) SSI or have a DDS decision that indicates they meet the criteria for MA based on blindness or disability are required to pursue SSI. BEM 271 (January 2016), p. 1. The Department must ensure that the client meets the time limits required by policy for the following actions, if required: (i) 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. For an appeals council review, the client must file a request for the review within 60 days of the SSI hearing decision date. BEM 271, p. 8. The Department will 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. 8. The Department will then verify that the client has submitted the appeals council review with 10 days of the date the DHS-1551 is sent to the client. BEM 271, p. 8. SDA clients receiving or those who have been found eligible for disability-related MA must comply with the requirements listed in policy. BEM 271, p. 1. These clients must also cooperate with all SSA requirements and procedures when

applying for SSI benefits. BEM 271, p. 1. Failure to comply as required results in group ineligibility for SDA. BEM 271, p. 1.

The Department testified that Petitioner's 2016 appeal had been denied by the SSA in 2018. The Department was unsure if the DHS-1551 or DHS-1552 were sent to Petitioner, and the record is devoid of any evidence that they were. Additionally, Petitioner applied for SSI benefits with the SSA on April 5, 2019. Just 25 days later, the Department closed Petitioner's SDA case for failing to provide to the Department proof that Petitioner was pursuing SSI benefits with the SSA.

It is evident from BEM 271 that the Department must assist clients through the SSI application and appeals process. The Department did not provide any evidence that Petitioner was advised he must provide proof to the Department that he was pursuing SSI benefits by sending him a DHS-1551 and DHS-1552. Petitioner stated he did not receive any documentation from the Department. Essentially, the Department closed Petitioner's case for failing to follow a directive that was never issued. Therefore, the Department failed to establish that it properly followed policy when closing Petitioner's SDA benefit case.

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 closed Petitioner's SDA benefits case, effective June 1, 2019.

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. Reinstate Petitioner's SDA case back to the date of closure, June 1, 2019;
2. Redetermine Petitioner's eligibility for SDA benefits from the date of closure ongoing;
3. If there are any eligibility-related factors that are unclear, inconsistent, contradictory, or incomplete, follow Department policy in requesting and obtaining the information;
4. If Petitioner is eligible for additional benefits, promptly issue to Petitioner any supplements due; and

5. 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-Lenawee-Hearings
L. Karadsheh
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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