



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.: 19-005544
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 Candice Benns, Hearings Facilitator, and Tiffany Suell, Eligibility Specialist. During the hearing, a nine-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-9.

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 began receiving SDA benefits sometime around June 2013.
2. Petitioner continued to receive SDA benefits until June 1, 2019.
3. On May 6, 2019, the Department issued to Petitioner a Medical Determination Verification Checklist, DHS Form 3503, in order to gather relevant information regarding Petitioner's eligibility for continuing SDA benefits. Specifically, the Department requested Petitioner return a Medical Social Questionnaire Update form, a Reimbursement Authorization form, and an Authorization to Release

Protected Health Information. Those documents were due back to the Department by May 16, 2019. Exhibit A, p. 5.

4. On May 16, 2019, the Department issued to Petitioner a Notice of Case Action informing Petitioner that his SDA case was closing, effective June 1, 2019, due to the Department's conclusion that Petitioner was not disabled and thus did not meet the eligibility requirements for SDA benefits. Additionally, the Notice of Case Action informed Petitioner that he was eligible for FAP benefits of \$192 per month, effective June 1, 2019. Exhibit A, pp. 6-8.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 objected to the closure of his SDA benefits case, effective June 1, 2019. The Department's position is that Petitioner was never determined to be disabled by the Department despite having received SDA benefits all the way from June 2013 through the end of May 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 has been approved for and received SDA benefits since 2013 despite having allegedly never gone through the process of establishing a disability or applying for benefits from the SSA. It is evident from BEM 271 that the Department must assist clients through the SDA and SSI application and appeals process. The Department did not provide any evidence that Petitioner was advised regarding any of these requirements, and the evidence on the record shows that Petitioner timely responded to all Department requests for information. Therefore, the Department failed to establish that it properly followed policy when closing Petitioner's SDA benefit case.

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

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. Redetermine Petitioner's SDA eligibility effective June 1, 2019, ongoing;
2. If Petitioner is eligible for SDA benefits, issue supplements he is entitled to receive as of June 1, 2019, ongoing; and
3. 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-Wayne-49-Hearings
L. Karadsheh
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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