



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 19, 2019
MOAHR Docket No.: 19-006374
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 July 17, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Dana Bongers, Lead Worker, Gail Jackson, Case Worker, and Angi John Baptist, Assistance Payments Supervisor. During the hearing, a 24-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-24.

ISSUE

Was the Department properly reimbursed for its State Disability Assistance (SDA) benefits issued to Petitioner during a time period that Petitioner was subsequently granted retroactive SSI benefits?

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 received SDA benefits from the Department from June 2017 through May 2019. Exhibit A, pp. 11-21.
2. Each year Petitioner received SDA, he signed a document titled Reimbursement Authorization. In relevant part, the document stated "I authorize the Social Security Administration to make my retroactive Supplemental Security Income (SSI) payment to the State of Michigan Department of Human Services (DHS)...I further permit the DHS to deduct from such retroactive payment an amount that is

enough to pay back my interim assistance.... I understand that I have the right to a hearing from DHS if I disagree with the amount deducted from the retroactive payment.” Exhibit A, pp. 4-7.

3. The documentation provided by the Department to show how much SDA benefits Petitioner received during the time period from June 2017 through May 2019 includes duplicate information and does not allow for a clear conclusion as to how much Petitioner actually received. Exhibit A, pp. 11-21.
4. In 2019, Petitioner received retroactive SSI benefits from the Social Security Administration (SSI) going back all the way to February 2017. Thus, all of the SDA benefits were issued during a time period that Petitioner eventually received SSI. Exhibit A, pp. 8-10.
5. The SSA deducted from Petitioner’s retroactive SSI award some unknown amount and remitted it to the Department as reimbursement for the SDA payments the Department made from June 2017 through May 2019.
6. The documentation provided by the Department failed to indicate how much the Department received as reimbursement, and the Department witnesses were unable to provide any evidence thereof.
7. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing disputing the amount of money the Department received as reimbursement for the SDA payments made to Petitioner from June 2017 through May 2019.

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 received SDA from the Department from June 2017 through May 2019. In 2019, Petitioner received an award of retroactive SSI benefits that covered that entire period. Some amount was deducted from that award and remitted to the Department as reimbursement for the SDA payments made by the Department. Petitioner submitted a timely hearing request objecting to the amount taken.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits when the client believes the decision is

incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

In this case, Petitioner submitted a hearing request objecting stating that the Department took too much money from his retroactive SSI award. The Department had repeatedly assured Petitioner that in such a circumstance, Petitioner would receive a hearing where he could challenge the amount taken. Notably, neither the documents nor the three Department witnesses present provided any evidence as to how much was actually taken from Petitioner's award and remitted to the Department. Without any evidence regarding how much the Department received, it is impossible to say that the Department took received the correct amount.

The Department bears the burden of showing that its challenged actions were taken in compliance with law and policy. To do so, the Department must at least explain why it took the action and provide documentary evidence of the action taken. The Department failed to do either. Thus, the Department failed to meet its burden of proof and must be reversed.

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 Department policy.

DECISION AND ORDER

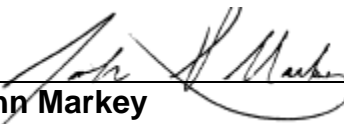
Accordingly, the Department's decision is **REVERSED**.

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. Redetermine the amount of SDA benefits Petitioner received from June 2017 through May 2019;
2. Redetermine how much money was remitted to the Department from Petitioner's retroactive SSI award as reimbursement for the SDA benefits Petitioner received from June 2017 through May 2019;
3. If the amount remitted is greater than the amount Petitioner received in SDA benefits, promptly provide to Petitioner a supplement;
4. Notify Petitioner in writing of its decisions, which includes an accounting of how much of Petitioner's retroactive SSI award was remitted to the Department.

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-Kalamazoo-Hearings
L. Karadsheh
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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