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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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[REDACTED]

Date Mailed: February 10, 2020
MOAHR Docket No.: 19-013674
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 February 5, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tracy Bailey, specialist.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's state-issued Supplemental Security Income payment (SSP).

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of October 2019, Petitioner was an ongoing recipient of Supplemental Security Income (SSI) benefits and SSP.
2. On October 2, 2019, the Social Security Administration (SSA) issued payment of SSI to Petitioner.
3. On November 2, 2019, SSA issued payment of SSI to Petitioner.
4. On November 21, 2019, MDHHS issued notice of SSP termination due to Petitioner not receiving a regular first of the month SSI payment for three consecutive months.

5. On December 2, 2019, SSA issued payment of SSI to Petitioner.
6. From October 2019 through December 2019, MDHHS did not issue SSP to Petitioner.
7. On December 4, 2019, Petitioner requested a hearing to dispute the termination of SSP eligibility.
8. On December 31, 2019, SSA issued payment of SSI to Petitioner.
9. Beginning January 2020, MDHHS restarted Petitioner's SSP eligibility.

CONCLUSIONS OF LAW

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. MDHHS administers the program pursuant to MCL 400.10.

Petitioner requested a hearing to dispute a termination of SSP beginning October 2019. Exhibit A, pp. 3-4. Petitioner happened to request her hearing on the notice dated November 21, 2019, informing her of SSP closure. The stated reason for closure was that Petitioner had not received her regular first of the month SSI payment for three months.

After Petitioner requested a hearing, MDHHS restarted Petitioner's SSP eligibility beginning January 2020. Thus, the only SSP benefits not received by Petitioner, and still in dispute, concerned October 2019 through December 2019.

SSI is a cash benefit to needy persons who are aged (at least 65), blind or disabled. BEM 660 (January 2017) p. 1. It is a federal program administered by the SSA. *Id.* States are allowed the option to supplement the federal benefit with state funds. *Id.* In Michigan, SSI benefits include a basic federal benefit and an additional amount paid with state funds. *Id.* SSP is issued for only those months the recipient received a regular first of the month federal benefit. *Id.*

It was not disputed that Petitioner received her SSI payments in October, November, and December of 2019 on the 2nd of each month. Petitioner testified that she was utterly faultless for the slightly tardy SSI issuances. Petitioner testified that SSA recently reviewed her case and that she provided SSA with all needed documentation. Petitioner testified that SSA neglectfully failed to process her continuing SSI benefits leaving her to call SSA each month immediately after not receiving her expected first of the month payment. Petitioner's testimony was credible and unrebutted.

MDHHS policy seemingly makes no exceptions for issuing SSP in months when clients do not receive SSI payments on the 1st. To her credit, Petitioner exposed one exception to MDHHS' seemingly stringent policy.

Petitioner testified she received her SSI for January 2020 benefit on December 31, 2019. Presumably, MDHHS considered Petitioner's early SSI payment as a "regular first of the month federal benefit" because SSP was issued to Petitioner in January 2020. Under the circumstances, the only inferable exception to issuing SSP when an SSI payment is not made on the 1st of a month, would be for early SSI payments, or when the first of the month falls on a holiday. An exception for a tardy SSI payment due to neglect by SSA cannot be inferred.

Petitioner did not receive a "regular first of the month" federal SSI benefit in October, November, or December of 2019. Thus, MDHHS properly did not issue SSP to Petitioner for those benefit months.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly did not issue SSP to Petitioner for October 2019 through December 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

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-57-Hearings
L. Karadsheh
BSC1- Hearing Decisions
MOAHR

Via First-Class Mail:

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