



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 19, 2020
MOAHR Docket No.: 20-004608
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 August 11, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Matt Dalman, Eligibility Specialist.

Respondent's Exhibit A pages 1-47 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's application for State Disability Assistance (SDA)?

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 October 28, 2019, the Social Security Administration denied Petitioner's application for SSI disability benefits.
2. On [REDACTED] 2019, Petitioner filed an application for State Disability Assistance (SDA) alleging disability.
3. On February 19, 2020, the Medical Review Team denied Petitioner's application for not having a current application with SSI/SSDI and no request for appeal.

4. On April 7, 2020, Petitioner filed a Request for Hearing to contest the Department's negative action.
5. On April 23, 2020, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents which were admitted as evidence.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Department policies are contained in the following Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, was established by 2004 PA 344. The Department administers the SDA program pursuant to 42 CFR 435, MCL 400.10 *et seq.* and Mich Admin Code, Rules 400.3151 – 400.3180. **A person is considered disabled for SDA purposes if the person has a physical or mental impairment which meets federal Supplemental Security Income (SSI) disability standards for at least ninety days.** Receipt of SSI benefits based on disability or blindness, or the receipt of MA benefits based on disability or blindness, automatically qualifies an individual as disabled for purposes of the SDA program.

In this case, the Department denied Petitioner's request for State Disability Assistance indicating:

Case is being sent back as an ND. Per the 1552 in file, clmt was technically denied for federal benefits as of 10/28/2019. Web eView confirms there is no appeal pending for this technical denial, and clmt has not reapplied for SSI/SSDI. Additionally, the 1552 is not "current", as we have no date to identify proof of a new federal claim within the past 60 days. Also, the 49F or other documents do not support the fact that clmt has a federal case pending.

Pertinent Department policy indicates:

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. (BEM 261)

A person is disabled for SDA purposes if he or she meets any of the following criteria:

- Receives other specified disability-related benefits or services; see Other Benefits or Services in this item.
- Resides in a qualified Special Living Arrangement (SLA) facility.
- Is certified as unable to work due to mental or physical disability for at least 90 days
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

Note: If the client's circumstances change so that the basis of his/her disability is no longer valid, determine if he/she meets any of the other disability criteria. Do **not** simply initiate case closure. (BEM 261, pages 1-2)

SSA's determination that disability or blindness does **not** exist for SSI is **final** for **Medical Assistance (MA)** if:

- The determination was made after 1/1/90, **and**
- No further appeals may be made at SSA; see EXHIBIT II in this item, **or**
- The client failed to file an appeal at any step within SSA's 60 day limit, **and**
- The client is **not** claiming:
 - A totally different disabling condition than the condition SSA based its determination on, **or**
 - An additional impairment(s) or change or deterioration in his condition that SSA has **not** made a determination on.

Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**.
(BEM 260, Emphasis Added)

For individuals applying for FIP, SDA, RCA and disability-related MA, verification must be obtained from SSA that an application or appeal is on file **before** the case is referred to the DDS. For FIP/SDA/RCA individuals receiving disability-related Medicaid, verification must be obtained from SSA that a SSI application or appeal is on file at **program redetermination and medical determination review**. (BEM 270, Emphasis added)

SSI benefits are paid to persons who are aged (65 or older), blind or disabled. The following individuals **must be referred** to SSA to apply for SSI:

- Persons age 65 or older.
- **Person applying, receiving or eligible for SDA and disability related MA.**
- Adults in a FIP group who are deferred more than 90 days from work related activities.
- Children who are blind or disabled.

A child is considered disabled for SSI purposes if the child meets all of the following: The child has a physical or mental condition(s) that can be medically proven. The condition(s) results in marked and severe functional limitations. The condition has lasted or is expected to last at least 12 months or end in death. The child is not working at a job considered substantial work by SSA. (BEM 270)

In this case, the Department denied Petitioner's application for State Disability Assistance because Petitioner's application for SSI was denied and she did not appeal. However, the Department must conduct a medical review of Petitioner's application to determine whether Petitioner meets the disability criteria for a period of 90 days. Department policy does not dictate that Petitioner must be automatically denied State Disability Assistance when SSI has issued a denial. Petitioner applied for State Disability Assistance after the SSI denial. This is a new application which must be properly processed. 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 issued a technical denial of Petitioner's State Disability Assistance (SDA) application based upon the Social Security Administration SSI denial. The Department must determine whether Petitioner meets the medical standard for State Disability Assistance for 90 days.

DECISION AND ORDER

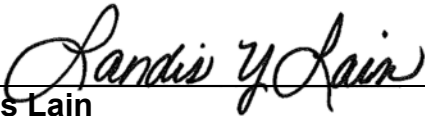
Accordingly, the Department's decision is **REVERSED**.

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 State Disability Assistance Application to the [REDACTED] 2019, application date;

2. Allow Petitioner to submit medical documentation of disability;
3. Refer Petitioner to SSA to apply for SSI;
4. Submit documentation to the Medical Review Team in accordance with Department policy for determination of medical disability;
5. If Petitioner is otherwise determined eligible for State Disability Assistance, pay to Petitioner any benefits to which she is entitled from the [REDACTED] 2019, application date forward.

LL/hb



Landis Lain
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

Ottawa County via electronic mail

BSC3 via electronic mail

L. Karadsheh via electronic mail

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]