



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: February 1, 2018  
MAHS Docket No.: 17-016043  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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; 42 CFR 431.200 to 431.250. After due notice, an administrative hearing was held on January 25, 2018, from Lansing, Michigan. Petitioner appeared and testified. Petitioner was not represented. The Department of Health and Human Services (Department) was represented by Julie McLaughlin.

### **ISSUE**

Whether the Department properly determined that Petitioner was not disabled for purposes of State Disability Assistance (SDA) benefit program at review?

### **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 March 1, 2017, Petitioner's open SDA case based on medical disability was review by the Medical Review Team (MRT).
2. At the time of the MRT review, Petitioner had an appeal on her Social Security denial.
3. On November 8, 2017, the United States District Court (USDC) vacated the Social Security Commissioner's decision and remanded Petitioner's case to the Commissioner.

4. On November 14, 2017, Petitioner was denied by the MRT, on the grounds that she failed to complete and return forms sent to Petitioner by the MRT, and was denied by the Social Security Administration (SSA) Appeals Council. MRT did not collect any new medical or review any new medical. Department Witness Testimony.
5. At the time of the MRT review, contrary to the MRT statement in Finding of Fact Number 2, Petitioner had an appeal pending with the USDC for the Western District of Michigan, Southern Division.
6. MRT did not collect any new medical or review any new medical. [Department Witness Testimony.]
7. On November 10, 2017, Dr. Thomas Chiambretti, DO/MRT indicated on Section VI of its decision that Petitioner is “capable of simple, unskilled, sed. Work.”
8. Petitioner credibly testified that she returned the requested forms on two occasions.
9. MRT failed to show for the administrative hearing.
10. On November 17, 2017, the Department issued a Notice of Case Action informing Petitioner that her “Cash Program” case was closing effective December 1, 2017.
11. On December 15, 2017 Petitioner filed a hearing request.

### **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), and Department of Health and Human Services Reference Tables Manual (RFT).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

At review, federal and state law, as well as Department policies put the burden of proof of the Department.

In this case, there were a number of errors on the part of the MRT. First, the MRT erred in stating that Petitioner exhausted all of her Social Security appeals. Petitioner did not. In fact, Petitioner had received a favorable ruling that remanded her case back to the Social Security Commissioner prior to the MRT decision.

Next, MRT decided that Petitioner's impairments improved, based on the "PD8" box that was checked off the decision. However, the Department witness testified that the MRT did not collect any new medical documentation. The medical documentation in Petitioner's file was the very evidence upon which the Petitioner was approved disability; it cannot be the same medical used to say that she does not meet the disability standard. Thus, to find that Petitioner no longer meets statutory disability on the basis of exact medical evidence found previously to show that she does meet statutory disability is not credible.

In addition, MRT claimed that it could not conduct a thorough review as Petitioner failed to return medical forms requested by the MRT. However, at the administrative hearing, Petitioner credibly testified that she returned the forms, in fact, on 2 occasions. Petitioner further discussed 2 separate phone calls she had with the MRT pertaining to these forms. MRT failed to appear at the administrative hearing, and was not available for testimony and/or cross examination. Petitioner's testimony was unrefuted.

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 MRT failed not meet its burden of proof based on the evidence of record, and thus, the Department's decision must be reversed. Petitioner is entitled to continuing disability/case assistance under the SDA program while the MRT conducts a statutory review pursuant to 20 CFR 416.994(b)(5).

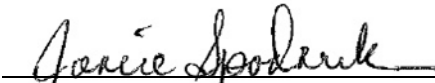
**DECISION AND ORDER**

Accordingly, the Department's determination is REVERSED.

THE DEPARTMENT IS ORDERED TO INITIATE THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE THE ORDER WAS ISSUED:

1. Reinstate Petitioner's Cash Program/SDA from the date of closure, initiate payment for any supplemental benefits to Petitioner to which she is entitled.
2. Return Petitioner's case to the MRT for a statutory review in accordance with federal and state regulations.

JS/bb

  
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**Janice Spodarek**  
Administrative Law Judge

**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 Administrative Hearing System.

**DHHS**

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**Petitioner**

