



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR



Date Mailed: July 27, 2018
MAHS Docket No.: 18-005598
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; 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, an administrative hearing was held on July 25, 2018, from Lansing, Michigan. The Petitioner was not represented. Petitioner's parent, [REDACTED], appeared as a witness and testified that she was Petitioner's Guardian. The Department of Health and Human Services (Department) was represented by Haysem Hosny, ESW and Hearings Coordinator.

ISSUE

Did the Department properly close Petitioner's State Disability Assistance (SDA) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. At all relevant times, Petitioner has been an SDA recipient based on disability with the Michigan Department of Health and Human Services (DHHS) and has been a recipient for a number of years.
2. On February 25, 2011 Petitioner received an Unfavorable decision from the Social Security Administration (SSA) after an administrative hearing based on an application with sufficient work credits for both Title II SSD and Title XVI for SSI. Petitioner had relevant work history.
3. On a subsequent SSA application with a final disposition on February 21, 2014 Petitioner received an Unfavorable SSA decision after a remand from the Appeals Council based on SSI.

4. On another subsequent SSA application on January 3, 2016 Petitioner had an unfavorable decision by the SSA.
5. On December 13, 2016 ALJ Lynn Ferris with MAHS granted Petitioner SDA benefits on the basis of listing 12.05, full scale IQ of 49. Exhibit C.8.
6. Petitioner testified that he had no relevant work history for 30 years, and, that he filed for SSA numerous times but that he misfiled under the SSD program instead of the SSI program. SSA decisions of February 25, 2011, February 21, 2014 and January 3, 2016 are contrary to Petitioner's testimony.
7. Petitioner testified that he has a full-scale IQ of 49 since birth. SSA decisions of February 25, 2011, February 21, 2014 and January 3, 2016 do not address any evidence of a full-scale IQ of 49 contrary to Petitioner's testimony.
8. Petitioner's mother appeared and claimed that she is Petitioner's Guardian and has been most of his life as he was born with a mental impairment. Neither Petitioner nor his "guardian" presented any guardianship papers.
9. Petitioner resides with his mother who claims that she is his guardian. No court order guardianship papers were submitted. Petitioner does not have a guardian listed in his file with the Respondent. Petitioner requested the administrative hearing herein, not his purported guardian. Petitioner's guardian testified that she is too busy to function as Petitioner's guardian as she has 6 children, 19 grandchildren, and 2 great-grandchildren. Petitioner alleges he has an IQ of 49; Petitioner's IQ was not alleged on any of Petitioner's prior Social Security medical evidence and decisions.
10. Petitioner's SDA case was scheduled for review in April 2018. Exhibit A.38 indicates that the Respondent sent the paperwork which was not returned. The Respondent attempted to reach Petitioner numerous times but did not have a correct phone number. When the Respondent obtained a correct phone number from a contact person, the Respondent was unable to reach Petitioner as Petitioner's voice mail was not set up.
11. The Respondent forwarded Petitioner's case file to MRT at an unknown date for a medical review. MRT did not conduct a medical review but denied continuing eligibility based on failure to cooperate/insufficient evidence. 20 CFR 416.912-.919. Exhibit A.20.
12. On May 30, 2018 the Respondent issued a Notice of Case Action denying Petitioner ongoing eligibility on the grounds of the MRT denial for failure to cooperate.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 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 assessing eligibility for SDA based on disability, the State of Michigan generally follows the federal and state law and guidelines for MA eligibility, with certain exceptions not applicable here.

Federal and state law mandates that before welfare benefits are issued, the recipient's file must contain current and accurate verifications to substantiate eligibility criteria. The State of Michigan can be subject to substantial financial penalties for failure to comply with this mandate. Included in this mandate are group composition and income verifications supporting budget calculations used in calculating MA budgets.

The purview of an administrative law judge is to review the evidence of record, and to decide if the evidence supports the action taken by the Respondent. It is noted moreover, that The State of Michigan is under strict federal mandates to ensure that a beneficiary's file contain all required verifications to support eligibility for all welfare programs.

Here, the Respondent argues that it followed its policy and procedure in requesting verification(s). Evidence indicates that Petitioner failed to return the requested paper work. Evidence further shows that the Respondent was unable to reach Petitioner, and that he did not have current and correct address and phone number information filed with the Respondent as required for the receipt of welfare benefits.

Petitioner argues that he never received the requested verifications. However, evidence also shows that Petitioner timely received the closure notice based on mail date and

hearing request date. Petitioner also argues, in the alternative, that due to his mental incapacity, which he has had since birth, he did not and could not comply with the complex redetermination process.

After a careful review of the evidence of record, this ALJ finds that the Respondent correctly denied Petitioner continuing eligibility at redetermination due to Petitioner's failure to comply with the redetermination process for the reasons set forth below.

First, Petitioner and his witness were not credible witnesses. On the one hand, Petitioner's parent stated that she was Petitioner's guardian. The parent offered no evidence to support this claim. However, assuming she is his guardian, she stated that she does not have time to carry out her fiduciary duties as such due to the 20 plus children and grandchildren she takes care of. As such, she is derelict in her duties. Such does not constitute good cause.

As to Petitioner's argument in the alternative that he cannot comply with the requests due to his IQ of 49, there is no evidence that Petitioner has a history of the same. Low mental capacity of 49 IQ was not alleged in his many prior SSI applications which Petitioner claims happened at birth. Moreover, Petitioner's representations that he filed repeatedly for the wrong social security program numerous times as an explanation for his numerous denials is simply not supported by the evidence. Several the prior decision denials by the SSA are in the evidentiary packet. These decisions not only state that Petitioner has in fact repeatedly applied and been denied SSI, but that as of the 2/24/11 decision, Petitioner had sufficient work credits at that time.

Most important, Petitioner has been an SDA recipient for several years. Petitioner is charged with the imputed knowledge of knowing how the program works, including redeterminations, as well as the duty to keep a current contact information on file with the Respondent. Petitioner failed to do so. Based on the evidence of record, has not met his burden of proof. As such, based on the record established in this matter and the applicable law, the Agency's decision is upheld.

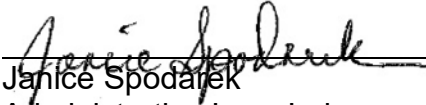
It is noted that the burden never shifted to the Respondent for a review case as this case never was reviewed as a medical review; Petitioner failed to cooperate prior to the case being medically reviewed. As noted in the Findings of Fact, the MRT denied for failure to cooperate, or in the alternative, insufficient information to process a review. As such, there is no medical analysis required herein.

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 evidence of record supports the actions taken by the Respondent and thus, the closure must be upheld. Petitioner has not met his burden of proof and the Respondent has acted in accordance with Department and federal law and policy.

DECISION AND ORDER

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

JS/nr



Janice Spodarek
Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Vivian Worden
41227 Mound Rd.
Sterling Heights, MI
48314

Macomb 36 County DHHS- via electronic
mail

BSC4- via electronic mail

L. Karadsheh- via electronic mail

Petitioner

