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

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

Date Mailed: August 3, 2018
MAHS Docket No.: 18-006098
Agency No.: ███████
Petitioner: ███████

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, a telephone hearing was held on August 1, 2018, from Lansing, Michigan. The Petitioner appeared and testified. ███████ CMH and ███████ appeared as witnesses. The Department of Health and Human Services (Department) was represented by Heather Clever, FIM and Timothy Gulliver, ES worker.

ISSUE

Did the Department properly deny Petitioner's 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. In a previous decision by MAHS ALJ E. Feldman, Petitioner was granted SDA benefits.

2. At review, on February 20, 2018 the Department closed the SDA on the grounds that Petitioner had received a final SSA determination.

3. The February 20, 2018 denial was incorrect as Petitioner had not received a final SSA denial but in fact had appealed his decision which was pending at the time of the denial.

4. SSA subsequently denied Petitioner at the Appeals Council level. Petitioner has reapplied for SSA.

5. On [REDACTED] Petitioner reapplied for SDA.

6. The Department stipulated that it erred, and the SDA was closed incorrectly as the Department should have sent Petitioner's file to MRT for an assessment as a new application.

7. On June 18, 2018 the Department corrected its error and forwarded Petitioner's medical file for review by the MRT. As of the date of the administrative hearing, the MRT decision is still pending.

8. The Department failed to issue any written notice or explanation to Petitioner informing him of the error. Nor did the Respondent inform Petitioner that it had forwarded his case to MRT.

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 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 this case, Petitioner did in fact received an SDA closure notice which was correct on [REDACTED]. Petitioner failed to file a timely hearing request.

At the same time, Petitioner subsequently reapplied both for social security and for SDA. However, that application for SDA was incorrectly denied, which is the issue here. There is not dispute as to the facts—the Department admits it erred in denying the subsequent reapplication based on a final SSA determination due to the fact that Petitioner has reapplied with SSA. Moreover, the Department has technically corrected its error by sending Petitioner's file to the MRT as it should have done initially with the reapplication. However, the Department never notified Petitioner that it did so. Thus, on these facts, the denial must be reversed.
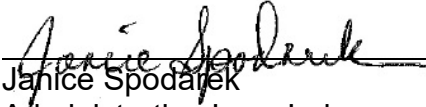
However, this ALJ has no remedy for Petitioner as the remedy is the action already taken by the Department—the Department has already forwarded Petitioner's file to the MRT. Why the Department failed to inform Petitioner is the reason that this case ended up prematurely at hearing. This ALJ has no jurisdiction to review this case prior to the MRT review. If MRT denies, then, Petitioner will have a right to a hearing if he requests one.

DECISION AND ORDER

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

The Department has already corrected its error by forwarding Petitioner's medical file to the MRT which, as of the date of the administrative hearing, is still pending. Thus, the Department is ordered to indicate on the 1843 the date that Petitioner's file was forwarded to MRT.

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

Kimberly Kilmer
800 Watertower
Big Rapids, MI
49307

Mecosta County DHHS- via electronic mail

BSC3- via electronic mail

L. Karadsheh- via electronic mail

Petitioner