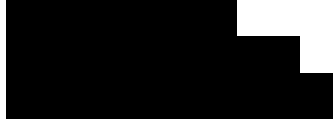




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 19, 2019
MOAHR Docket No.: 19-011902
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 December 9, 2019, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) failed to appear at the hearing.

ISSUE

Did the Department properly deny Petitioner's July 1, 2019 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 [REDACTED], 2019, Petitioner applied for SDA benefits.
2. Petitioner applied for Retirement, Survivors and Disability Insurance (RSDI) benefits but not Supplemental Security Income (SSI) benefits.
3. On August 12, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for SDA benefits had been denied.
4. On October 11, 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

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 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.

Additionally, as a condition of eligibility individuals must apply for any state and/or federal benefits for which they may be eligible. BEM 270 (April 2016), p. 1. Further, refusal of a program group member to pursue a potential benefit results in group ineligibility. *Id.* In this case, Petitioner applied for SDA benefits on [REDACTED], 2019. On or about July 10, 2019, Petitioner submitted a Verification of Application or Appeal for SSI/RSDI which confirmed that Petitioner had applied for RSDI benefits. On August 12, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for SDA benefits had been denied.

RSDI benefits are payable to a wage earner and/or his/her dependents. The benefits are administered by the Social Security Administration (SSA). The wage earner must be covered by Social Security and must be one of the following:

- Retired and at least age 62.
- Disabled or blind.
- Dead.

RSDI are potential benefits for all of the following persons:

- A person who is blind.
- A person who is retired and at least age 62.
- A person who claims illness or injury prevents him from working for at least 12 months.
- A person whose spouse is retired, disabled or dead.
- A child whose parent is retired, disabled or dead. BEM 270 (January 2018), pp. 2-3.

Further, under Department policy, persons receiving one of the following benefits or services meet the SDA disability criteria:

- Retirement, Survivors and Disability Insurance (RSDI), due to disability or blindness.
- Supplemental Security Income (SSI), due to disability or blindness.

- Medicaid (including deductible) as blind or disabled if the disability/blindness is based on:
 - A Disability Determination Service (DDS) determination, or
 - A hearing decision, or
 - Having SSI which was based on blindness or disability that was recently terminated (within the past 12 months) for financial reasons; see Recently Eligible for SSI in BEM 260.

Medicaid received by former SSI recipients based on policies in BEM 150 under SSI TERMINATIONS, including MA While Appealing Disability Termination, does not qualify a person as disabled for SDA. Such persons must be certified as disabled or meet one of the other SDA qualifying criteria; see Medical Certification of Disability in this item.

- Michigan Rehabilitation Services (MRS). A person is receiving services if he has been determined eligible for MRS and has a signed active individual plan for employment (IPE) with MRS. Do **not** refer or advise applicants to apply for MRS for the purpose of qualifying for SDA. BEM 261 (April 2017), p. 2.

In its Hearing Summary, the Department stated that Petitioner's application had been denied because she failed to apply for SSI benefits. The section of the Hearing Summary used to identify the law and regulation(s) or manual item(s) used in taking action was left blank. The Department failed to appear at the hearing and, therefore, failed to state the authority for its denial. Under Department policy, individuals applying for or receiving disability-related MA must apply for SSI as a potential resource. BEM 270 (January 2018), p. 1. Petitioner applied for SDA Cash and not disability-related MA benefits. As such, the Department improperly denied Petitioner's application for SDA benefits.

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 denied Petitioner's [REDACTED], 2019 application for SDA benefits.

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. Reregister and reprocess Petitioner's [REDACTED], 2019 application for SDA benefits;

2. If Petitioner was eligible for supplements, issue SDA supplements Petitioner was eligible for but did not receive; and
3. Notify Petitioner in writing of its decision.

JAM/jaf



Jacquelyn A. McClinton
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 (via electronic mail)

Sharnita Grant
MDHHS-Wayne-19-Hearings
BSC4
L Karadsheh

Petitioner (via first class mail)

