



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS  
DIRECTOR

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Date Mailed: April 30, 2019  
MOAHR Docket No.: 19-002843  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 April 25, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Richkelle Curney, hearing facilitator.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) eligibility due to Petitioner's failure to verify assets.

### **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 January 4, 2019, Petitioner applied for SDA benefits. Exhibit A, pp. 5-14.
2. On February 1, 2019, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of disability. The due date for Petitioner to return information was February 11, 2019. The mailing included a Medical Examination Report for Petitioner to have completed by her physician for the purpose of evidence of Petitioner's alleged disability. Exhibit A, p. 15.
3. On February 26, 2019, MDHHS received a Medical Examination Report via fax. All sections of the form were blank. Exhibit A, pp. 17-19.

4. On March 5, 2019, MDHHS denied Petitioner's SDA application due to Petitioner's failure to verify disability.
5. On March 18, 2019, Petitioner requested a hearing to dispute a termination of FAP eligibility, an alleged termination of Medicaid eligibility, and a denial of SDA. Exhibit A, pp. 2-3.
6. As of March 18, 2019, MDHHS had not taken a negative action on Petitioner's Medicaid eligibility.
7. During the hearing, Petitioner withdrew her dispute concerning Food Assistance Program (FAP) benefits.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a termination of FAP benefits beginning April 2019. After MDHHS terminated Petitioner's FAP eligibility, Petitioner reapplied and was approved for FAP benefits beginning April 2019. As a result of the approval, Petitioner experienced no loss in FAP coverage and stated she no longer had a dispute concerning FAP benefits. Petitioner's hearing request will be dismissed concerning FAP benefits.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute an alleged termination of MA benefits. MDHHS responded that no negative actions were taken to Petitioner's MA eligibility. Petitioner did not bring notice of the threatened MA closure to the hearing and admitted that she is still receiving Medicaid benefits. During the hearing, the MDHHS representative checked Bridges (the MDHHS database) and credibly testified that no MA-closure notices were sent to Petitioner in 2019. Given the evidence, MDHHS took

no negative action to Petitioner's Medicaid eligibility. Thus, there is no administrative hearing jurisdiction for the dispute. Without administrative hearing jurisdiction, Petitioner's hearing request will be dismissed concerning the Medicaid dispute.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner lastly requested a hearing to dispute a denial of SDA benefits. A Notice of Case Action (Exhibit A, pp. 20-21) dated March 5, 2019, stated that Petitioner's application was denied due to a failure to verify necessary information. MDHHS testimony stated that the unnecessary information was proof of Petitioner's disability.

During the hearing, it was assumed that the crux of the dispute was whether MDHHS owed Petitioner notice of Petitioner's failure to submit a completed Medical Examination Report. MDHHS policy actually does not require SDA applicants to submit such verification.

BAM 815 outlines the procedures for how MDHHS is to process SDA applications. A summary of steps is as follows:

- (1) Approve the SDA if the client is established as disabled by SSA. If disability is not already established, proceed to the second step.
- (2) Interview the client.
- (3) Have the client complete a Medical-Social Questionnaire (DHS-49F)
- (4) Have the client sign a DHS-1555 Authorization to Release Protected Health Information.
- (5) For SDA applicants, have the client sign a DHS-3975 Reimbursement Authorization.
- (6) Mail the client a DHS-3503-MRT requesting the following required forms: DHS-49-F, DHS-1555, DHS-3975, and verification of a pending SSA application.**
- (7) Assist the client in completing forms, if necessary.
- (8) Review the DHS-1555 and DHS-49-F to ensure completion.
- (9) Send all required documents to Disability Determination Services, along with any submitted medical evidence, to begin the medical evaluation process. BAM 815 (April 2018) pp. 3-4.

Notably, a DHS-49 and/or medical records are not required verifications. Presumably, MDHHS is expected to obtain a client's medical records from SSA, though clients can submit additional medical records. MDHHS can deny a client's SDA application due to a client's failure to return a Medical-Social Questionnaire, an Authorization to Release

Protected Health Information, a Reimbursement Authorization, and/or verification of a pending claim of disability at SSA because each of these forms are required for the disability evaluation process. BAM 815 does not state that a Medical Examination Report is a required form for the disability process; thus, MDHHS cannot deny a SDA application for a client's failure to return the form. Given the evidence, MDHHS improperly denied Petitioner's SDA application due to Petitioner's failure to return a Medical Examination form.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning FAP eligibility. It is further found that Petitioner failed to establish administrative hearing jurisdiction for a dispute of Medicaid closure. Concerning Medicaid and FAP eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SDA application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's SDA application dated January 4, 2019;
- (2) Process Petitioner's application subject to the finding that a DHS-49 is not a required form for SDA.

The actions taken by MDHHS are **REVERSED**.

CG/jaf



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**Christian Gardocki**

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**

Tara Roland 82-17  
MDHHS-Wayne-17-Hearings

**Petitioner**

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