



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: February 3, 2020
MOAHR Docket No.: 19-013156
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, a telephone conference hearing was held on January 30, 2020, from Lansing, Michigan. Petitioner personally appeared unrepresented. The Department of Health and Human Services (Department) was represented by Lori Aumick, HF, and Greg Folsom, HF.

ISSUE

Whether the Department properly closed 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 prior to the Notice of Case Action at issue herein, Petitioner has been an SDA recipient based on disability.
2. On August 26, 2019, the Respondent received verification from the Social Security Administration (SSA) that Petitioner had exhausted all of her appeals of her Supplemental Security Income (SSI) and Retirement Survivors and Disability Insurance (RSDI) applications.
3. On November 26, 2019, the Respondent forwarded Petitioner's file to MRT.
4. On December 9, 2019, MRT denied Petitioner continuing SDA benefits on the grounds that Petitioner received a final determination with no further appeals. Petitioner must reapply for SDA.

5. On December 13, 2019, Respondent issued a Notice of Case Action informing Petitioner that effective January 1, 2020, Petitioner's SDA will close, and that Petitioner must reapply for SDA to be reconsidered for SDA based on disability.
6. On December 17, 2019, Petitioner appealed the denial.

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.

BEM 260 states in part:

Not Eligible For RSDI

If the client is **not** eligible for RSDI based on disability or blindness:

- The Disability Determination Service (DDS) certifies disability and blindness.

Exception: The Social Security Administration's (SSA's) final determination that the client is **not** disabled/blind for SSI, **not** RSDI, takes **precedence** over an DDS determination; see **Final SSI Disability Determination** in this item.

**Final SSI
Disability
Determina-
tion**

SSA's determination that disability or blindness does **not** exist for SSI is **final** for MA if:

- The determination was made after 1/1/90, **and**
- No further appeals may be made at SSA; see EXHIBIT II in this item, **or**
- The client failed to file an appeal at any step within SSA's 60 day limit, **and**
- The client is **not** claiming:
 - A totally different disabling condition than the condition SSA based its determination on, **or**
 - An additional impairment(s) or change or deterioration in his condition that SSA has **not** made a determination on.


Eligibility for MA based on disability or blindness does **not** exist once SSA's determination is **final**. BEM 260 page 3 of 15.

In this case, unrefuted evidence of record is that Petitioner received a final determination from SSA on August 26, 2019. The law does not allow Petitioner any further appeals. On December 9, 2019, MRT found that the SSA determination was final on the Department, requiring SDA closure. MRT further indicated that Petitioner would need to reapply for SDA. On December 13, 2019, Respondent issued a Notice of Case Action stating the same.

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 SDA close is required by state law and Department policy and is supported by the facts of record. BEM 260. As such, the Department's SDA case closure is upheld.

DECISION AND ORDER

Accordingly, the Department's determination is AFFIRMED.



JS/ml

Janice Spodarek
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

Gregory Folsom
4809 Clio Road
Flint, MI 48504

Genesee (District 6) County DHHS – Via
Electronic Mail

L. Karadsheh – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED]
MI [REDACTED]