



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 24, 2021
MOAHR Docket No.: 21-000184
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 March 17, 2021, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Tiffany Wallace, Assistance Payments Worker, and Nichole Phillips, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's State Disability Assistance (SDA) application?

Did the Department properly seek repayment of issued SDA benefits from Petitioner?

FINDINGS OF FACT

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

1. Petitioner was an SDA recipient between the periods of June 16, 2016 through July 31, 2017 and February 16, 2018 through August 31, 2020 (Exhibit A, pp. 41-42).
2. Effective August 1, 2020, Petitioner began receiving Retirement, Survivors and Disability Insurance (RSDI) income (Exhibit A, p. 34). Petitioner's disability onset date was October 31, 2018 and the date of entitlement began November 1, 2018 (Exhibit A, p. 33).
3. Effective September 1, 2020, Petitioner's SDA benefit case closed.

4. On [REDACTED] 2020, Petitioner submitted an application for SDA benefits (Exhibit A, pp. 14-29).
5. Petitioner had unearned income in the form of RSDI benefits in the gross amount of \$[REDACTED].
6. On December 16, 2020, the Department sent Petitioner a Notice of Case Action informing her that her SDA application was denied due to excess income (Exhibit A, pp. 37-40).
7. On January 5, 2021, Petitioner submitted 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.

In this case, Petitioner submitted an application for SDA benefits on [REDACTED] 2020. The Department determined that Petitioner was not eligible for SDA benefits due to excess income.

For SDA benefits, financial need must exist to receive benefits. BEM 518 (January 2020), p. 1. Financial need exists when the certified group passes the Issuance Deficit Test. BEM 518, p. 1. To perform the issuance deficit test, the Department subtracts budgetable income from the certified group's payment standard for the benefit month. BEM 518, p. 1. The Department compares budgetable income for the income month using the earned income disregard to the certified group's payment standard for the benefit month. BEM 515, p. 3. The group is ineligible for the benefit month if no deficit exists or the group has a deficit less than \$10. BEM 518, p. 3.

The payment standard is dependent on the client's SDA certified group size. BEM 515, p. 3. For SDA, group size consists of either a single adult or adult and spouses living together. BEM 214 (April 2019), p. 1. In this case, Petitioner was not married. Therefore, Petitioner has a group size of one. Based on a certified SDA group size of one, the applicable payment standard is \$200. RFT 225 (December 2013), p. 1.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies

specify whose income is countable. BEM 500 (July 2017), pp. 1–5. For RSDI, the Department counts the gross benefit amount as unearned income. BEM 503 (January 2020), p. 28. The Department includes the gross amount of current Social Security Administration (SSA)-issued SSI as unearned income. BEM 503 (January 2020), p. 34. Whenever an SSA-issued independent living or household of another payment is budgeted, the Department will include the monthly SSP payment amount as unearned income. BEM 503, p. 35. SSI amounts withheld to recoup overpayments due to an Intentional Program Violation (IPV) are also included in the gross amount. BEM 503, p. 33. Amounts deducted by an issuing agency to recover a previous overpayment or ineligible payment are not part of gross income. BEM 500 (July 2017), p. 6. These amounts are excluded as income. BEM 550, p. 6.

The Department presented Petitioner’s State Online Query (SOLQ) report showing that as of January 1, 2021, Petitioner received gross monthly RSDI benefits in the amount of \$█. Petitioner’s RSDI income alone places her over the income limit. Petitioner’s \$█ monthly RSDI income subtracted by the \$200 payment standard results in a standard monthly income of \$█. As there is no deficit, Petitioner is not eligible for SDA benefits. Therefore, the Department acted in accordance with policy when it denied Petitioner’s SDA application.

Petitioner also submitted a hearing request to dispute the Department’s decision to seek repayment of issued SDA benefits. State-funded SDA clients must sign an agreement to repay interim assistance when pursuing a potential benefit. BEM 272 (January 2018), p. 1. Repay agreements are required for accumulated benefits paid retroactively (Examples include SSI). BEM 272, p. 1. Accumulated benefits are defined as a one-time payment of accumulated non-Department benefits issued to cover a retroactive period of time or to cover a future period of time. BPG Glossary (April 2020), p. 1.

There are three types of repay agreements: (i) MDHHS-1171, Assistance Application; (ii) DHS-3975, Reimbursement Authorization; and (iii) DHS-2157, Repay Agreement. BEM 272, p. 2. The MDHHS-1171-INFO, Information Booklet, contains a reimbursement acknowledgment authorizing SSA to mail the retroactive SSI payment to DHS for repayment of interim state funded FIP and SDA. BEM 272, p. 2. SSA tapes are electronically matched bi-weekly against Bridges to identify state-funded FIP and SDA recipients who are SSI applicants. BEM 272, p. 2. The automated system then sends SSA a tape identifying persons whom SSA does not have coded as state-funded recipients. BEM 272, p. 2. SSA changes the coding to reflect the repayment authorization. BEM 272, p. 2. The Department also uses a DHS-3975 when SSI is the potential benefit source. BEM 235, p. 2. It serves as a prompt notice to SSA that an SSI applicant is active on a state-funded cash case. BEM 235, p. 2. If SSI is approved before the automated crossmatch, it alerts SSA to send the retroactive SSI payment to the Department. BEM 235, p. 2. The form remains in effect until SSI approval or a final SSI denial. BEM 235, p. 2.

The amount that the Department may recoup from a client’s SSI-accumulated benefits is limited to the regular, vendored and supplemental state-funded SDA paid during the

interim assistance period. BEM 272, p. 4. The repayment amount of accumulated benefits is the SDA amount owed or the windfall amount covering the interim assistance period, whichever is less. BEM 272, p. 4. For SSI accumulated benefits, it begins with the state-funded SDA pay period containing the retroactive SSI begin date.

The Department presented a DHS-3975 Reimbursement Authorization signed by Petitioner on June 12, 2017. Per the SOLQ, Petitioner became eligible for RSDI on November 1, 2018 and SSI on October 1, 2018. Petitioner's case is coded as IAR: 2, meaning repayment was sent to the State of Michigan. BEM 272, p. 6. In Petitioner's case, the interim assistance pay period begins November 1, 2018, the first month Petitioner became eligible for the initial SSI payment based on an SSI eligibility date of October 1, 2018, and during which period she was receiving state-funded SDA, which continued until September 1, 2020, when the SDA case closed.

However, in this case, the undersigned ALJ is unable to discern how much of Petitioner's Social Security SSI benefits were sent to the State of Michigan for repayment of issued SDA benefits. The Department did not present any other documentation showing the amount of the repayment.

At the hearing, Petitioner alleged that the Department was "stealing" her money. Per policy, the Department is entitled to seek repayment of SDA benefits issued during the interim assistance period from her SSI income. However, the Department failed to establish the total repayment recovered and whether it was recovered from Petitioner's SSI benefits. In the absence of such evidence, the Department failed to establish that it properly determined the amount of the SDA repayment.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied Petitioner's SDA application. The Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it sought repayment of issued SDA payments from Petitioner's Social Security income.

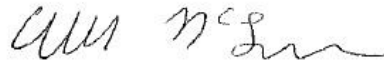
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Petitioner's SDA application and **REVERSED IN PART** with respect to Petitioner's SDA repayment amount.

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. Redetermine Petitioner's SDA repayment amount;

2. If the Department recovered excess funds from Petitioner's SSI accumulated benefits for the repayment of the SDA benefits, repay Petitioner amounts she is entitled to receive in accordance with Department policy, if any; and
3. Notify Petitioner of its decision in writing.

EM/jem



Ellen McLemore
Administrative Law Judge
for Elizabeth Hertel, 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

Via Email:

MDHHS-Wayne-17-Hearings
BSC4-HearingDecisions
L. Karadsheh
MOAHR

Petitioner – Via First-Class Mail:

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