



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 15, 2021
MOAHR Docket No.: 21-005005
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 8, 2021. [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Cheryl Watkins, Assistance Payments (AP) Supervisor, and Danielle Hurst, AP Worker.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-36.

ISSUE

Did the Department properly deny Petitioner's [REDACTED] 2021 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 or about [REDACTED], [REDACTED] Petitioner applied for SDA. (Exhibit A, p. 32)
2. On May 19, 2021, a Verification Checklist was issued to Petitioner requesting verifications by a June 1, 2021 due date. The requested verifications were: disability conforms to SSA standards; and Residential address. (Exhibit A, pp. 11-13)
3. On May 26, 2021, the Department completed a telephone interview with Petitioner. (Exhibit A, p. 1)

4. On June 2, 2021, a Medical Determination Verification Checklist was issued to Petitioner with a due date of June 14, 2021. No specific verifications were marked as being requested. (Exhibit A, pp. 9-10)
5. Petitioner submitted a letter from his attorney, medical documents, and completed forms: Authorization to Release Protected Health Information (DHS-155); Reimbursement Authorization (DHS-3975); and the Medical-Social Questionnaire (DHS 49F). (Exhibit A, pp. 1, 14-30, and 32)
6. On June 17, 2021, the Department emailed the Medical Review Team (MRT)/Disability Determination Services (DDS) Petitioner's SDA paperwork. (Exhibit A, p. 1)
7. On June 22, 2021, MRT/DDS emailed the AP worker stating they were unable to accept this submission at this time for several reasons, including that the statement from Petitioner's attorney was not an acceptable form of current SSA verification as only SSA is able to verify a client's status with them related to whether there is a current application/appeal for RSDI and SSI. The email indicated that once the above corrections have been made the claim could be re-submitted to MRT/DDS. (Exhibit A, pp. 1 and 31-32)
8. On July 19, 2021, a Notice of Case Action was issued to Petitioner stating SDA was denied effective June 16, 2021 and ongoing based on a failure to return documentation to complete the disability determination. (Exhibit A, pp. 3-6)
9. On October 18, 2021, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 7-8)

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 general, verification is to be obtained when information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. The Department must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client nor the Department can

obtain verification despite a reasonable effort, the Department should use the best available information. If no evidence is available, the Department is to use their best judgment. BAM 130, July 1, 2021, pp. 1-3 (underline added by ALJ).

For SDA, the Department must allow the client 10 calendar days (or other time limit specified in policy) to provide the verification requested. Verifications are considered timely if received by the date they are due. The Department is to send a negative action notice when the client indicates a refusal to provide verification or the time period has elapsed and the client has not made a reasonable effort to provide it. Further, if the client contacts the department prior to the due date requesting an extension or assistance in obtaining verifications, the specialist may grant an extension to the VCL due date. BAM 130, p. 7 (underline added by ALJ).

In this case, Petitioner applied for SDA on or about [REDACTED] [REDACTED] (Exhibit A, p. 32)

On May 19, 2021, a Verification Checklist was issued to Petitioner requesting verifications by a June 1, 2021 due date. The requested verifications were: disability conforms to SSA standards; and Residential address. (Exhibit A, pp. 11-13) This Verification Checklist did not request verification of a current application/appeal for SSA disability benefits.

On May 26, 2021, the Department completed a telephone interview with Petitioner. (Exhibit A, p. 1) The Department indicated that needed verifications were discussed during the interview. (Department Testimony)

On June 2, 2021, a Medical Determination Verification Checklist was issued to Petitioner with a due date of June 14, 2021. No specific verifications were marked as being requested. (Exhibit A, pp. 9-10) Accordingly, the Department did not tell the client what verification is required and how to obtain it. It is also noted that there is no option on this form to check that the Department is requesting verification of a pending SSA appeal, nor any explanation as to what type of verification would be acceptable. The only option is for proof of a pending SSA disability benefits application or scheduled appointment to apply for benefits. (Exhibit A, p. 9)

Petitioner submitted a letter from his attorney, medical documents, and completed forms: Authorization to Release Protected Health Information (DHS-155); Reimbursement Authorization (DHS-3975); and the Medical-Social Questionnaire (DHS 49F). (Exhibit A, pp. 1, 14-30, and 32) The letter from the attorney specified that Petitioner was waiting for a hearing to be scheduled for his SSA disability case. (Exhibit A, p. 30)

On June 17, 2021, the Department emailed the MRT/DDS Petitioner's SDA paperwork. (Exhibit A, p. 1)

On June 22, 2021, MRT/DDS emailed the AP worker stating they were unable to accept this submission at this time for several reasons, including that the statement from Petitioner's attorney was not an acceptable form of current SSA verification as only SSA

is able to verify a client's status with them related to whether there is a current application/appeal for RSDI and SSI. The email indicated that once the above corrections have been made the claim could be re-submitted to MRT/DDS. (Exhibit A, pp. 1 and 31-32)

However, instead of correcting these issues and re-submitting, the Department denied Petitioner's SDA application. On July 19, 2021, a Notice of Case Action was issued to Petitioner stating SDA was denied effective June 16, 2021 and ongoing based on a failure to return documentation to complete the disability determination. (Exhibit A, pp. 3-6)

Overall, the evidence shows that the Department failed to properly request verification of a pending SSA disability benefit application or appeal from Petitioner. Neither the Verification Checklist nor the Medical Determination Verification Checklist requested verification of a pending SSA disability benefit application or appeal, let alone stated how to obtain it or what type of verification would be acceptable. Further, Petitioner made a reasonable effort to provide verification of his current SSA disability benefit appeal by providing the letter from his attorney. The evidence does not establish that Petitioner indicated a refusal to provide verification or that the time period had elapsed and the Petitioner had not made a reasonable effort to provide verification. Rather, Petitioner asserted that the week prior to receiving the denial he called the Department to make sure all documentation was submitted properly and was told that it was. (Exhibit A, p. 8; Petitioner Testimony)

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for SDA.

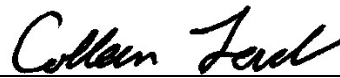
DECISION AND ORDER

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. Re-process Petitioner's [REDACTED] application for SDA in accordance with policy.

CL/ml



Colleen Lack
Administrative Law Judge

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-Washtenaw-Hearings
BSC4
L. Karadsheh
MOAHR

Petitioner – Via USPS:

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