



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: November 29, 2022
MOAHR Docket No.: 22-004911
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 November 23, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Ashley Soper, Family Independence Manager.

ISSUE

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

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 ██████████ 2022, Petitioner submitted an application for cash assistance on the basis of a disability.
2. No Function Report/Activities of Daily Living form was generated or issued to Petitioner for completion.
3. On October 7, 2022, MDHHS issued a Notice of Case Action to Petitioner, informing her that her SDA application was denied for failure to return documentation to complete disability determination.
4. On October 27, 2022, Petitioner timely submitted a hearing request disputing the denial of her SDA application.

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.

Petitioner disputes the denial of her [REDACTED] 2022 SDA application for failure to return documentation to complete disability determination.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. A person is disabled for SDA purposes if he or she meets any of the following criteria:

- Receives other specified disability-related benefits or services (Other Benefits or Services) such as Retirement, Survivors and Disability Insurance (RSDI), Supplemental Security Income (SSI), Medicaid (including deductible) as blind or disabled (under certain provisions), Michigan Rehabilitation Services (MRS), Michigan Bureau of Services for Blind Persons (BSBP) or special education services.
- Resides in a qualified Special Living Arrangement (SLA) facility
- Is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability.
- Is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS).

BEM 261 (April 2017), pp. 1-2.

Otherwise, to be considered disabled for SDA purposes, a person must have a physical or mental impairment for at least ninety days which meets federal SSI disability standards, meaning the person is unable to do any substantial gainful activity by reason of any medically determinable physical or mental impairment. BEM 261, pp. 1-2; 20 CFR 416.901; 20 CFR 416.905(a).

The Disability Determination Service (DDS) develops and reviews medical evidence for disability and/or blindness and either certifies or denies a client's medical eligibility for SDA assistance. BEM 261, p. 4; BAM 815 (April 2018), p. 1. At application, if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability and the application will be denied. BAM 815, p. 2. If requested or instructed, the individual must provide information about their education and training, work experience, and daily activities among other information. 20 CFR 416.1512(a)-(b). In some situations, a determination may not be made because the case record is

insufficient, as it does not contain all of the information needed. A request may be made for the individual to provide more information in order to resolve the insufficiency. If there is a failure to submit evidence that is needed and requested, a decision will be made based on the information available. 20 CFR 416.1516;20 CFR 416.1520b.

In this case, MDHHS determined that Petitioner would need to complete an Activities of Daily Living form to aid their decision regarding her eligibility for SDA. MDHHS testified that no Activities of Daily Living form was ever generated or issued to Petitioner due to agency error; therefore, Petitioner was unable to complete and submit the form to MDHHS. MDHHS testified that this is the only form that was currently needed in order to complete Petitioner's disability determination. MDHHS testified that Petitioner's failure to return the Activities of Daily Living form led to her SDA application being denied. Since MDHHS failed to issue the form to Petitioner for her completion, MDHHS did not act in accordance with policy in denying her SDA application for failure to complete the Activities of Daily Living form.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's SDA application.

DECISION AND ORDER

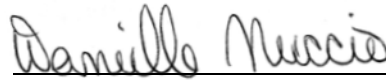
Accordingly, the Department's decision is **REVERSED**.

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 Petitioner's [REDACTED] 2022 SDA application;
2. Generate and issue an Activities of Daily Living form to Petitioner;
3. Reprocess Petitioner's SDA application for April 21, 2022 ongoing;
4. If Petitioner is eligible for benefits, issue supplements to Petitioner for any cash assistance and/or SDA she was eligible to receive but did not from April 21, 2022 ongoing;

5. Notify Petitioner of its decision in writing.

DN/mp



Danielle Nuccio
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-Electronic Mail :

DHHS
MDHHS-Oakland-6303-Hearings
L. Karadsheh
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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[REDACTED] MI [REDACTED]