



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: August 15, 2024  
MOAHR Docket No.: 24-006259  
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 July 16, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Krysenda Slayton, Overpayment Establishment Analyst (OEA).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-52.

### **ISSUE**

Did the Department properly determine that Petitioner received State Disability Assistance (SDA) benefits that she was not eligible for and must be recouped?

### **FINDINGS OF FACT**

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

1. From February 16, 2020 to May 31, 2020 Petitioner received SDA benefits totaling \$ [REDACTED] (Exhibit A, p. 14)
2. On January [REDACTED] 2020, Petitioner applied for SDA. (Exhibit A, pp. 23-27)
3. On February [REDACTED] 2020, a Medical Determination Verification Checklist was issued to Petitioner requesting documentation needed to determine eligibility for SDA with a due date of February 18, 2020. (Exhibit A, pp. 28-29)
4. On February [REDACTED] 2020, an interview was completed with Petitioner. (Exhibit A, pp. 30-31)

5. On March █ 2020, a Notice of Case Action was issued to Petitioner stating SDA was approved effective February 16, 2020. A blank Change Report form was included. (Exhibit A, pp. 32-39)
6. On April █ 2020, a Quick Note was issued to Petitioner explaining that SDA was approved because of a temporary 45 day waiver of disability determination due to COVID 19. (Exhibit A, p. 40)
7. On April █ 2020, Disability Determination Services/Medical Review Team (DDS/MRT) determined that Petitioner was not disabled and was capable of performing other work. (Exhibit A, pp. 15-22)
8. On May █ 2020, a Notice of Case Action was issued stating the SDA case would close effective June 1, 2020 because the COVID 19 temporary deferral 45 day waiver has expired. (Exhibit A, pp. 41-46)
9. On May █ 2020, a Notice of Case Action was issued stating the SDA case would close effective June 1, 2020 because DDS/MRT determined Petitioner was not disabled. (Exhibit A, pp. 47-51)
10. The Department determined that Petitioner was overissued SDA benefits from February 1, 2020 to May 31, 2020 in the amount of \$█ due to agency error. The Department approved SDA for Petitioner pursuant to a 45 day COVID-19 policy waiver. The Disability Determination Services/Medical Review Team (DDS/MRT) subsequently determined that Petitioner was not disabled. (Exhibit A, pp. 1, 6, 12-13)
11. On May █ 2024, the Department sent Petitioner a Notice of Overissuance instructing her that a \$█ overissuance of SDA benefits occurred from February 1, 2020 to May 31, 2020 due to agency error and would be recouped. (Exhibit A, pp. 6-11)
12. On or about May 21, 2024, the Department received Petitioner's request for a hearing protesting the recoupment of FAP benefits. (Exhibit A, pp. 4-5)

### **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.

When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overpayment. BAM 700, June 1, 2024, p. 1. An agency error is a type of overpayment or underissuance resulting from an incorrect action or failure to take action by the state agency. A client error is a type of overpayment or underissuance resulting from inaccurate reporting on the part of the household. BAM 700, p. 5. Agency and client errors are not pursued if the OP amount is equal to or less than \$250 per program. BAM 700 p. 5.

The Department determined that Petitioner was overissued SDA benefits from February 1, 2020 to May 31, 2020 in the amount of \$[REDACTED] due to agency error. The Department approved SDA for Petitioner pursuant to a 45 day COVID-19 policy waiver. The Disability Determination Services/Medical Review Team (DDS/MRT) subsequently determined that Petitioner was not disabled. (Exhibit A, pp. 1, 6, 12-13). From February 16, 2020 to May 31, 2020 Petitioner received SDA benefits totaling \$[REDACTED] (Exhibit A, p. 14). Accordingly, the Department is seeking recoupment of all of the SDA benefits issued to Petitioner.

The Department has not provided any policy, ESA Memo, or other documentation of the COVID-19 policy waiver. This Administrative Law Judge (ALJ) was able to locate a June 4, 2020 Memorandum addressing SDA processing, which indicates that there was a March 17, 2020 SDA COVID-19 Waiver. However, this ALJ was unable to locate any documentation dated March 17, 2020 for the SDA COVID-19 Waiver.

An undated COVID-19 SDA Bridges Screen Entries to Defer Disability Determination was located, which indicates that disability determinations were temporarily waived and the Department was to update the disability screen marking that the individual met SDA disability criteria and enter a review date 45 days from March 17, 2020 for applications currently awaiting a disability determination. The Department was to add an end date to the disability record of April 30, 2020 for applications in progress. Further, regarding applications with pending disability determinations, the Department was to:

For applications with pending DDS Disability Determinations, reinstate the original application, remove the end date from the Disability Record and change the CSCD to 05/01/2020 on the Disability Determination Record changing the SDA back to Pending.

It will pend without error and will not create the issue of the status date correction which requires a call to BRC and also does not create the issue with the 4026-error due to certifying.

This will allow the applications to be tracked and put them back in a pending status from 05/01/2020 onward. We will then await the DDS Disability Determination to make an ongoing determination of disability for eligibility.

COVID-19 SDA Bridges Screen Entries to  
Defer Disability Determination, undated

Accordingly, it appears that the SDA benefits issued prior to May 1, 2020 were not an overpayment and should not be recouped. No policy, ESA Memo, or other documentation of the COVID-19 policy waiver was found stating the SDA benefits issued pursuant to the COVID-19 policy waiver would be recouped if the individual was subsequently found not disabled.

It appears that the SDA benefits issued as of May 1, 2020 were an overpayment due to Department error. Petitioner received \$[REDACTED] in SDA benefits for May 1, 2020 through May 31, 2020. (Exhibit A, p. 14). Petitioner had not been found disabled and the temporary waiver period for the disability determination should have ended. Further, the Benefit Inquiry Summary documents that Petitioner also received Family Independence Program (FIP) benefits in the amount of \$[REDACTED] for the month of May 2020. (Exhibit A, p. 14). Petitioner should not have received cash assistance under both the FIP and SDA programs in the same month. However, the submitted documentation indicates this only occurred in May 2020 and the monthly benefit amounts were below \$250.00 per program. Pursuant to BAM 700, agency and client errors are not pursued if the OP amount is equal to or less than \$250 per program. BAM 700 p. 5.

Overall, the evidence does not support the Department's determination that Petitioner received an overpayment of SDA benefits from February 1, 2020 to May 31, 2020 in the amount of \$[REDACTED] due to agency error. Rather, it appears that the SDA overpayment is only the \$[REDACTED] issued for the month of May 2020, which was a Department error, but is below the threshold of \$250.00 per program to pursue recoupment.

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 did not act in accordance with Department policy when it determined that Petitioner received the \$[REDACTED] overpayment of SDA benefits from February 1, 2020 to May 31, 2020.

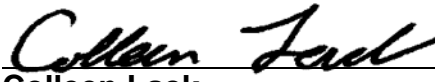
**DECISION AND ORDER**

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. Delete the \$ [REDACTED] overpayment of SDA benefits from February 1, 2020 to May 31, 2020 in its entirety and cease any recoupment/collection action.

CL/dm



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-Electronic Mail :**

**DHHS**  
Shanna Ward  
Osceola-Mecosta County DHHS  
**MDHHS-Mecosta-Osceola-  
Hearings@michigan.gov**

**DHHS Department Rep.**  
Overpayment Establishment Section  
(OES)  
**MDHHS-RECOUPMENT-  
HEARINGS@Michigan.gov**

**KaradshehL**

**BSC3HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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