

Massachusetts Department of Transitional Assistance

Appeal Number: 1023392
Agency ID:
Category: EAEDC
TAO: North Shore TAO – DTA
Filing Date: 08/17/2015
Hearing Date: 11/02/2015
Decision Date: 11/04/2015

Fair Hearing Decision

Outcome(s):

EAEDC	Approved
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DEPARTMENT REPRESENTATIVE(S): Marisa Wall
JURISDICTION:

Notice dated June 22, 2015 was sent to the appellant stating the Department will stop the appellant's EAEDC benefits because he failed to provide verification of his disability.(Exhibit 1)

The appellant filed this appeal on August 17, 2015, and therefore, it is timely (106 CMR 343.140(B)) (Exhibit 2).

The termination of assistance is grounds for appeal (106 CMR 343.230 / 367.025).

ACTION(S) BY DEPARTMENT:

Department took action to stop the appellant's EAEDC benefits because he failed to provide verification of his disability required of the program.

ISSUE(S):

Was the planned Department action to stop the appellant's EAEDC benefits correct?

SUMMARY OF EVIDENCE:

The Department Representative testified that the appellant was asked to submit a Medical Report completed by a competent medical authority and a completed Disability Supplement form.

It was explained to the appellant that in order to proceed with his disability claim, he must comply with the programs regulations and requirements. The Department Representative noted that a completed medical report was received by the Department but certain release forms were incomplete or missing.

The appellant appeared for the hearing telephonically with counsel. He testified that he has been receiving EAEDC benefits for 16 years. He suffers from both physical and mental disabilities.

The Department submitted documents including an EAEDC medical report and Disability Supplement form, marked as Exhibit 3.

FINDINGS OF FACT:

The record shows and I so find by a preponderance of the evidence that:

1. The appellant was a recipient of EAEDC benefits. (Testimony)
2. The Department requested that the appellant submit a Medical Report completed by a competent medical authority

and a completed Disability Supplement form, including release forms. (Testimony & Exhibit 1)

3. By notice dated June 22, 2015, the Department took action to stop the appellant's EAEDC benefits because the appellant failed to verify his disability by filing a completed Disability Supplement form. Specifically, the Department alleged the appellant failed to properly execute all release forms with the Disability Supplement form. (Testimony & Exhibit 1)

4. I have found that the Department received a timely Medical Report and Disability Supplement form as requested by the Department. (Testimony & Exhibit 3)

5. I have found that the appellant made an appropriate effort to provide the Department with all documents as requested. Given the appellant's disability and the lack of specificity of the Department's request for a completed Medical Report and Disability Supplement form without specifying that release forms were either incomplete or missing, I have found that the appellant complied with the Department's requests as noted in Exhibit 1. (Testimony, Exhibit 1)

CONCLUSIONS OF LAW:

106 CMR 320.200 governs the ongoing requirement that a recipient of EAEDC benefits must provide updated disability reports and records with exceptions. The regulation states, in relevant part, as follows:

320.200: Disabled

(A) An applicant or recipient of EAEDC under the age of 65 is disabled if he or she has an impairment or combination of impairments that is expected to last 60 days or more and that substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself.

An applicant or recipient shall be considered as having such an impairment or combination of impairments if he or she:

(1) has an impairment or combination of impairments that is verified by a competent medical authority as defined in 106 CMR 701.600 on a medical report prescribed by the Department which meets the requirements of 106 CMR 320.200(D), and which the competent medical authority as defined in 106 CMR 701.600 and the agency or organization under contract/agreement with the Department to provide disability evaluation services, when required, determines:

(a) meets a standard specified in 106 CMR 320.210; or

(b) is included in the SSI Listing of Impairments as specified in 20 CFR, Part 404, Subpart P, Appendix 1; or

(c) substantially reduces or eliminates the applicant's or recipient's ability to support himself or herself when consideration is given to the vocational factors specified in 106 CMR 320.220; or

(2) has written notification from SSA or an administrative law judge that he or she is considered disabled for purposes of SSI or SSDI and/or that he or she is eligible for SSI or SSDI. However, this provision does not apply to an SSI or SSDI recipient or former recipient who is not currently receiving SSI or SSDI payments due to the recoupment of an overpayment by SSA. Such person is not eligible for EAEDC.

(B) An EAEDC applicant or recipient must apply for SSI and cooperate in the SSI application and/or appeal process when required by the Department or the agency or organization under contract/agreement with the Department to provide disability evaluation services.

(C) An EAEDC recipient must periodically submit verifications at times determined by the Department and/or the agency or organization under contract/agreement with the Department to provide disability evaluation services of his or her:

(1) disability as specified in 106 CMR 320.200(A)(1) from a competent medical authority as defined in 106 CMR 701.600; or

(2) being determined disabled for purposes of SSI or SSDI as specified in 106 CMR 320.200(A)(2).

(D) The medical report required by 106 CMR 320.200(A)(1) and (C)(1) must be completed within 30 days of its filing with the Department and must be based on an examination conducted within the preceding 30 days of the report's completion unless both of the following conditions are satisfied:

(1) the medical report is for an applicant; and

(2) the impairment(s) listed is chronic and no improvement could be expected.

(E) The agency or organization under contract/agreement with the Department to provide disability evaluation services shall make the determination of disability for EAEDC eligibility except when:

(1) a competent medical authority as defined in 106 CMR 701.600 verifies that the applicant or recipient has an impairment or combination of impairments that:

(a) is expected to last at least 60 days but not more than 90 days; and

- (b) meets or is equivalent to a medical standard specified in 106 CMR 320.210 or impairment included in the SSI Listing of Impairments; and
- (c) the applicant or recipient has not received EAEDC as disabled in the immediately preceding 12 months; or
- (2) the applicant's or recipient's medical report is not completed by a competent medical authority as defined in 106 CMR 701.600, is not completed within 30 days of filing with the Department, or is not based on an examination within 30 days of the completion of the medical report as required by 106 CMR 320.200(D); or
- (3) a competent medical authority as defined in 106 CMR 701.600 verifies that the EAEDC applicant or recipient does not have an impairment that affects his or her ability to work and/or that the applicant's or recipient's impairment or combination of impairments is not expected to last for 60 or more days; or
- (4) the applicant or recipient verifies that he or she is eligible for SSI or SSDI or considered disabled for purposes of SSI or SSDI as specified in 106 CMR 320.200(A)(2).
- (F) If a disability determination by the agency or organization under contract/agreement with the Department to provide disability evaluation services is:
 - (1) required and the competent medical authority as defined in 106 CMR 701.600 states that the applicant or recipient meets a medical standard, SSI Listing of Impairments, or has an impairment(s) that affects his or her ability to work, and if the applicant or recipient is otherwise eligible for EAEDC, the applicant or recipient shall receive EAEDC benefits pending a review by the agency or organization providing disability evaluation services; or
 - (2) not required because 106 CMR 320.200(E) is applicable, the EAEDC applicant or recipient shall be considered disabled upon furnishing to the Department the necessary medical report or verification(s) and shall receive EAEDC benefits if he or she is otherwise eligible for EAEDC.

I find that the appellant complied with the Department's requests for a timely Medical Report and Disability Supplement.

The Department must follow 106 CMR 701.220 entitled "Obtaining Benefits" and comply with its responsibilities :

Applicants and recipients obtain benefits through contact with the Department. It is the Department's responsibility to:

- (A) Advise applicants and recipients of all requirements and benefits of the program;
- (B) Advise applicants and recipients of their rights and responsibilities;
- (C) Respect the rights of applicants and recipients;
- (D) Determine eligibility and amount of the grant;
- (E) Advise applicants who are denied benefits of the availability of other Department programs for which they may be eligible;
- (F) Make necessary referrals for related benefits and services; and
- (G) Perform the auxiliary administrative activities required.

I do not find that the Department complied with 106 CMR 701.220. It did not adequately advise the appellant of all requirements of the program nor did it perform the auxiliary administrative activities required. The Department should have been specific in its letter(s) to the appellant as to the alleged deficiency of his Disability Supplement in order for him to comply with the Department request(s).

The termination of the appellant's EAEDC benefits was incorrect. This appeal is approved.

ACTION FOR DEPARTMENT:

Reinstate the appellant EAEDC benefits, providing retroactive benefits to the date of termination.

Paul Semenza
Hearing Officer

CC: Marisa Wall; Laura Gallant, null