

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED] AVE.
[REDACTED]

Reg. No: 20136406
Issue No: 6015
Case No: [REDACTED]
Hearing Date: March 21, 2013
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on October 18, 2012. After due notice, a telephone hearing was held on March 21, 2013 at which Claimant appeared and provided testimony. The department was represented by [REDACTED], an assistance payments worker with the department's Macomb County office.

ISSUE

Whether the department properly closed Claimant's Child Development and Care (CDC) benefits for failure to complete the redetermination form?

FINDINGS OF FACT

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

1. Claimant was a recipient of CDC benefits at all times relevant to this hearing.
2. On July 16, 2013, the department mailed Claimant a Redetermination form (DHS-1010), informing Claimant that it is time to review her eligibility for the CDC program and that while no appointment was required, Claimant must complete the Redetermination form and return it to her specialist by August 1, 2012. The Redetermination form further advised Claimant that if she did not return the completed form and submit all required proofs by the deadline; her benefits may be expired, cancelled, or reduced. Claimant was further advised that if she did not understand the form and required assistance completing it, she must contact her specialist (T. Beville-smith) before the due date. (Department Exhibit 1)

3. Claimant did not return the completed Redetermination form to her case specialist by the August 1, 2012 deadline.
4. On August 20, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing Claimant that her CDC benefits would be closed effective September 9, 2012 because Claimant failed to return the redetermination form and/or provide required proofs. (Department Exhibit 2)
5. On August 20, 2012, the department also mailed Claimant a Child Development and Care Client Certificate/Notice of Authorization (DHS-198-C), informing her that her provider ([REDACTED]) was authorized to provide care for Claimant's child, [REDACTED], through September 8, 2012. (Department Exhibit 4)
6. On August 20, 2012, the department also mailed Claimant's provider, [REDACTED], a Child Care Provider Authorization (DHS-198), informing the provider that the provider was authorized to provide care for Claimant's child, [REDACTED], through September 8, 2012. (Department Exhibit 3)
7. On October 18, 2012, Claimant requested a hearing, protesting the department's closure of her CDC benefits. (Request for a Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility for benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. MAC R 400.903(1).

The Child Development and Care (CDC) program was established by Titles IVA, IVE, and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The goal of the CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BEM 703. The department may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. . For MA, if the client cannot provide the verification despite a reasonable effort, the time limit is extended up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130. (Emphasis added).

In the instant case, Claimant is disputing the department's closure of her CDC benefits due to her failure to submit the requested redetermination paperwork. At the March 21, 2013 hearing, Claimant testified that she received the Redetermination form mailed to her by the department on July 16, 2012. Claimant further testified that she mistakenly read the "Appointment Date – None Required" language on the Redetermination form to mean that no action was required on her part, including her completion and submittal of the form itself.

Claimant further testified that she never received the August 20, 2012 Notice of Case Action and Child Development and Care Client Certificate/Notice of Authorization, both of which were mailed to Claimant at the same address that the Redetermination form was mailed. Claimant also testified that her provider never received the August 20, 2012 Child Care Provider Authorization mailed to [REDACTED] at the address confirmed as accurate by Claimant. The proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). However, the department representative testified that none of the three notices - the August 20, 2012 Notice of

Case Action, Development and Care Client Certificate/Notice of Authorization, and Child Care Provider Authorization – were returned to the department as undeliverable.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds unreasonable Claimant's testimony that she interpreted the "Appointment Date – None Required" language on the Redetermination form to require no action on her part – particularly given that the form advised in bolded print that if Claimant did not return the completed form and submit all required proofs by the deadline, her benefits may be expired, cancelled, or reduced. Moreover, Claimant was further advised that if she did not understand the form and required assistance completing it, she must contact her specialist before the due date.

Consequently, his Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the department properly closed Claimant's CDC benefits case effective September 8, 2012 for failure to complete the redetermination form.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly closed Claimant's CDC benefits case effective September 8, 2012 for failure to complete the redetermination form. Accordingly, the department's actions in this regard are **UPHELD**.
IT IS SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 25, 2013

Date Mailed: March 25, 2013

NOTICE: Michigan Administrative Hearings System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal this Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

