

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-11858
Issue No.: 6002; 2000
Case No.: [REDACTED]
Hearing Date: January 23, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on January 23, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] Specialist.

ISSUES

The first issue is whether Claimant had a basis to request an administrative hearing concerning a denial of Medical Assistance (MA) benefits.

The second issue is whether DHS properly denied Claimant's application for Child Development and Care (CDC) benefits due to Claimant's failure to verify employment.

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 [REDACTED], Claimant applied for CDC benefits.
2. On an unspecified date, Claimant applied for MA benefits.
3. Prior to [REDACTED], Claimant's employment with an employer (hereinafter "Employer 1") stopped and Claimant began employment with another employer (hereinafter "Employer 2").

4. On [REDACTED], DHS requested proof of Claimant's employment status with Employer 1.
5. DHS gave Claimant a [REDACTED] due date to comply with the employment status request.
6. On an unspecified date, Claimant called her specialist to inquire why she needed to verify employment that she did not have since [REDACTED].
7. DHS failed to respond to Claimant's inquiry.
8. DHS denied Claimant's application due to a Claimant failure to verify employment with Employer 1.
9. As of [REDACTED], Claimant's MA benefit application was pending.
10. On [REDACTED], Claimant requested a hearing to dispute the denial of CDC benefits and a potential denial of MA benefits.
11. On an unspecified date following [REDACTED], DHS denied Claimant's MA application for unspecified reasons.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant stated as of [REDACTED], the date of her hearing request submission, Claimant had applied for MA benefits but was awaiting a DHS decision. Claimant testified that she requested a hearing for MA "as a precaution". Claimant clarified that she wanted to request a hearing in case DHS denied her application. Claimant's motive in anticipating a denial was to avoid having to request or wait for a second hearing.

At the time of Claimant's hearing request, DHS had not taken an adverse action to Claimant's MA eligibility. Clients may not request hearings in anticipation of adverse actions. Though Claimant disagreed with the eventual denial her recourse is to separately request a hearing. Claimant failed to assert an appropriate basis for a hearing (see BAM 600) concerning MA benefits related to a hearing request dated [REDACTED].

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child

Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a CDC application denial. DHS presented testimony that Claimant's application was denied due to a failure to verify employment.

During the hearing, DHS alleged that a Verification of Employment was mailed to Claimant on [REDACTED]. DHS also presented testimony that Claimant was given a due date of [REDACTED] to return the verification. It was not disputed that Claimant failed to return the employment verification.

Claimant responded that she contacted her specialist to report that the Verification of Employment mailed by DHS listed employer information for a job that Claimant did not have. Claimant testified that she left messages with DHS to report that she hadn't worked for the employer since 5/2013; Claimant also testified that her specialist did not respond to the messages. The client must obtain required verification, but DHS must assist if clients need and request help. BAM 130 (7/2013), p. 3.

Claimant's specialist did not appear for the hearing. DHS could not rebut any of Claimant's allegations or propose a valid reason for requesting the status of Claimant's previous employment. DHS can request verification of employment income (see BAM 500) including stopped employment up to 30 days before an application (see BEM 500). DHS has no basis to request employment information from more than 30 days before an application date.

It is possible that DHS requested verification of Claimant's stopped employment because Claimant was an ongoing benefit recipient who hadn't reported changing employers until applying for CDC benefits. It is possible that DHS had reason to believe that Claimant's employment with Employer 1 was ongoing. DHS did not provide sufficient evidence to justify the employment income request. Claimant only provided testimony, but the testimony was credible.

Claimant's testimony was consistent with a Verification of Employment which was inexplicably dated [REDACTED], the date that DHS denied Claimant's CDC application. The Verification of Employment indeed listed information for Claimant's allegedly previous employer.

Though Claimant did not set forth a compelling excuse for failing to respond to the DHS request for verification of employment, DHS presented less compelling evidence to justify the request. DHS also failed to prove that Claimant received proper assistance

with complying with the request. Based on the presented evidence, the denial of Claimant's CDC application is found to be improper.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS Claimant did not have a dispute concerning MA benefits as of 10/31/13, the date of Claimant's hearing request. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for CDC benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's CDC application dated [REDACTED];
- (2) initiate processing of Claimant's application subject to the following findings:
 - DHS had no basis to request verification of Claimant's employment which stopped more than 30 days before her CDC application submission date ; and
 - If the request was valid, DHS failed to assist Claimant with the request.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/14/2014

Date Mailed: 2/14/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

