

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

IN THE MATTER OF:



Reg. No.: 2014-24058
Issue No(s): 3002; 6002
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's Food Assistance Program (FAP) application dated November 12, 2013?

Did the Department properly deny Claimant's Child Development and Care (CDC) program application dated November 12, 2013?

Did the Department properly deny Claimant's CDC application dated December 3, 2013?

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 November 12, 2013, Claimant applied for FAP and CDC benefits and she reported employment earnings in the application.
2. On November 15, 2013, the Department sent Claimant a New Hire Client Notice (new hire) and the form was due back by November 25, 2013. See Exhibit 1.

3. On November 15, 2013, the Department sent Claimant a Verification Checklist (VCL), which requested verification of employment, CDC provider assignment, CDC need for employment, and home rent. See Exhibit 1. The verifications were due back by November 25, 2013. See Exhibit 1.
4. Claimant failed to submit the new hire or verifications by the due date (November 25, 2013).
5. On November 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective December 1, 2013, ongoing, due to failure to provide verification of rent expense and earned income. See Exhibit 1.
6. On December 3, 2013, Claimant applied for CDC only.
7. On December 3, 2013, Claimant also submitted with her application a change report form, rent receipt, new hire, and two pay stubs (dated October 30, 2013 and November 27, 2013).
8. On December 17, 2013, the Department sent Claimant a VCL, which requested verification of employment and CDC need for employment. See Exhibit 1. The verifications were due back by December 27, 2013. See Exhibit 1.
9. On December 27, 2013, Claimant faxed the Department three pay stubs (dated October 30, 2013; November 27, 2013; and December 26, 2013) and a CDC provider verification. See Exhibit 1.
10. On December 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective December 1, 2013, ongoing, due to her failure to provide verification of earned income payment and employment need for CDC. See Exhibit 1.
11. On January 16, 2014, Claimant filed a hearing request, protesting the FAP and CDC application denials. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

☒ 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.

FAP application

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2013), p. 6. This includes completion of necessary forms. BAM 105, p. 6.

For FAP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it requests. BAM 130 (July 2013), p. 5. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

The Department also requests verification by generating a DHS-4635, New Hire Notice, from its system. BAM 807 (July 2013), p. 1. When a DHS-4635 is requested, the Department automatically gives the client 10 calendar days to provide verification from the date the forms were requested. BAM 807, p. 1.

If verifications are not returned by the 10th day, the case will close for a minimum of 30 days after appropriate actions are taken by the Department, unless client returns verifications. BAM 807, p. 2. The date the client reapplies determines if the new hire verifications must be returned before processing the new application. BAM 807, p. 2.

In this case, on November 12, 2013, Claimant applied for FAP and CDC benefits and she reported employment earnings in the application. On November 15, 2013, the Department sent Claimant a new hire and the form was due back by November 25, 2013. See Exhibit 1. On November 15, 2013, the Department sent Claimant a VCL, which requested verification of employment, CDC provider assignment, CDC need for employment, and home rent. See Exhibit 1. The verifications were due back by November 25, 2013. See Exhibit 1. Claimant testified that she failed to submit the new hire or verifications by the due date (November 25, 2013). Thus, on November 27, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP application was denied effective December 1, 2013, ongoing, due to failure to provide verification of rent expense and earned income. See Exhibit 1.

Based on the above information and evidence, it appears that the Department properly denied Claimant's FAP application due to her failure to provide the verifications by the due date. BAM 130, p. 6 and BAM 807, p. 1.

However, on December 3, 2013, Claimant submitted a CDC application, a change report form, rent receipt, new hire, and two pay stubs (dated October 30, 2013 and November 27, 2013).

If the group is ineligible or refuses to cooperate in the application process, the Department certifies the denial within the standard of promptness. BAM 115 (July 2013), p. 23. The Department sends a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. The Department sent Claimant a DHS-1605 stating the denial reasons as failure to provide verification of rent expense and earned income. See Exhibit 1.

Nevertheless, the Department proceeds as follows when a client completes the application process after denial but within 60 days after the application date for FAP only. BAM 115, p. 23. On or before the 30th day:

- Re-register the application, using the original application date.
- If the client is eligible, determine whether to prorate benefits according to initial benefits policy.

BAM 115, p. 23.

Based on the foregoing information and evidence, the Department failed to re-register and determine Claimant's FAP eligibility for the application dated November 12, 2013, in accordance with Department policy. On November 12, 2013, Claimant applied for FAP benefits. On November 27, 2013, the Department sent Claimant the written notice of FAP denial due to failure to provide verification of rent expenses and earned income. See Exhibit 1. On December 3, 2013, Claimant provided verification of rent expense and earned income. The earned income verification was sufficed by both the pay stubs and/or the new hire. Claimant submitted the verifications within 30 days of the original application date. Claimant completed the application process after the denial but within 30 days after the application date for FAP benefits. See BAM 115, p. 23. Thus, the Department should have re-registered the application, using the original application date and determine her eligibility. See BAM 115, p. 23.

It should be noted that Claimant testified that she never received the Notice of Case Action dated November 27, 2013. The Department's evidence indicated that it did send the notice to Claimant's proper address. Moreover, the Department testified that it did not receive any undeliverable mail and it was centrally printed. The proper mailing and addressing of a letter creates a presumption of receipt which 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). Based on the above information, Claimant failed to rebut the presumption of proper mailing because the Department presented persuasive evidence that the Notice of Case Action was properly sent. Nevertheless, the Department will still re-register the FAP application based on Claimant completing the application process within 30 days of the original application date. See BAM 115, p. 23.

CDC applications

For CDC cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verifications it request. BAM 130, p. 5. For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM 130, p. 6. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. BAM 130, p. 6.

The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

The client is responsible for obtaining any requested verifications needed to determine eligibility. BEM 702 (July2013), p. 1. BEM 702 also listed the required verifications prior to opening CDC benefits, such as: verify the identity of the applicant and authorized representative and verify the need for CDC. See BEM 702, pp. 1-2.

In this case, on November 12, 2013, Claimant applied for FAP and CDC benefits and she reported employment earnings in the application. On November 15, 2013, the Department sent Claimant a new hire and the form was due back by November 25, 2013. See Exhibit 1. On November 15, 2013, the Department sent Claimant a VCL, which requested verification of employment, CDC provider assignment, CDC need for employment, and home rent. See Exhibit 1. The verifications were due back by November 25, 2013. See Exhibit 1. Claimant testified that she failed to submit the new hire or verifications by the due date (November 25, 2013). Claimant and the Department acknowledged that they did communicate via telephone.

However, at the hearing, the Department failed to present as evidence a denial notice for the CDC application dated November 12, 2013. It was unclear if the Department sent Claimant a CDC denial notice due to her failure to comply with the verification requirements. Nevertheless, Claimant appeared to acknowledge her CDC denial as she reapplied for CDC benefits on December 3, 2013. Based on the foregoing information, it is harmless error by the Department for failing to present a denial notice for the CDC application dated November 12, 2013. Claimant agreed that she failed to provide the verifications by the due date. Moreover, her subsequent actions of applying for CDC benefits on December 3, 2013, presents persuasive evidence that she acknowledged her denial. Therefore, the Department properly denied Claimant's CDC application dated November 12, 2013.

As stated above, on December 3, 2013, Claimant applied for CDC only. On December 3, 2013, Claimant also submitted with her application a change report form, rent receipt, new hire, and two pay stubs (dated October 30, 2013 and November 27, 2013). On December 17, 2013, the Department sent Claimant a VCL, which requested verification of employment and CDC need for employment. See Exhibit 1. The verifications were due back by December 27, 2013. See Exhibit 1. On December 27, 2013, Claimant

presented evidence that she faxed to the Department three pay stubs (dated October 30, 2013; November 27, 2013; and December 26, 2013) and a CDC provider verification. See Exhibit 1. However, the Department testified that it only received the CDC provider verification. On December 30, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective December 1, 2013, ongoing, due to her failure to provide verification of earned income payment and employment need for CDC. See Exhibit 1.

Based on the foregoing information and evidence, the Department improperly denied Claimant's CDC application effective December 1, 2013, ongoing.

First, the Department testified that it only received the CDC provider verification on or around December 27, 2013. However, Claimant provided credible evidence that she faxed over both the provider verification and three pay stubs.

Second, Claimant provided credible evidence and testimony that she submitted all CDC verifications requested before the December 27, 2013 due date. As stated previously, the CDC denial reason was verification of earned income payment and employment need for CDC. See Exhibit 1. A review of the VCL dated December 17, 2013, indicated that earned income verification includes one of the following proofs: last 30 days of check stubs or earnings statements, employer statement, Verification of Employment (DHS-38), etc...See Exhibit 1. Also, verification of CDC need for employment includes one of the following proofs: work schedule showing number of hours worked, pay stubs showing number of hours worked, Verification of Employment (DHS-38), etc...See Exhibit 1. Claimant met both verification requirements when she submitted her three pay stubs on December 27, 2013. Moreover, Claimant also submitted her new hire on December 3, 2013, which would have appeared that it would also suffice the verification requirements for earned income payment and employment need for CDC.

In summary, Claimant provided credible evidence that she submitted the necessary verifications for her CDC application before the due date. Thus, the Department improperly denied Claimant's CDC application dated December 3, 2013. The Department will re-register and process Claimant's CDC application dated December 3, 2013.


DECISION AND ORDER

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 (i) did not act in accordance with Department policy when it failed to re-register and determine her FAP eligibility for the application dated November 12, 2013; (ii) acted in accordance with Department policy when it properly denied Claimant's CDC application dated November 12, 2013; and (iii) did not act in accordance with Department policy when it improperly denied Claimant's CDC application dated December 3, 2013.

Accordingly, the Department's decision is AFFIRMED IN PART with respect to CDC application dated November 12, 2013 and REVERSED IN PART with respect to FAP application dated November 12, 2013 and CDC application dated December 3, 2013.

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 the FAP application dated November 12, 2013;
2. Reregister the CDC application dated December 3, 2013;
3. Begin reprocessing the application/recalculating the FAP/CDC budgets from the date of applications, in accordance with Department policy;
4. Issue supplements to Claimant for any FAP/CDC benefits she was eligible to receive but did not from the date of applications; and
5. Notify Claimant in writing of its FAP and CDC decisions in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2014

Date Mailed: February 27, 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

EJF/tlf

cc:

