

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14652
Issue No(s): 6002
Case No.: [REDACTED]
Hearing Date: February 3, 2014
County: Oakland (4)

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 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's husband, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Family Independence Specialist (Case Manager).

ISSUE

Did the Department properly deny Claimant's Child Development and Care (CDC) program application effective September 8, 2013, ongoing?

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 September 9, 2013, Claimant applied for CDC benefits. See Exhibit 1.
2. On September 27, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by October 7, 2013. See Exhibit 1.
3. Claimant never submitted the verifications by the due date.
4. On October 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective September 8, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

5. On November 19, 2013, Claimant filed a hearing request, protesting the CDC denial. 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 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 9858g; 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.

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 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 (July 2013), 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 (July 2013), p. 1. Verification of the identity of the applicant and authorized representative is required prior to opening CDC. See BEM 702, p. 2.

In this case, on September 9, 2013, Claimant applied for CDC benefits. See Exhibit 1. On September 27, 2013, the Department sent Claimant a VCL, which was due back by October 7, 2013. See Exhibit 1. Specifically, the Department requested verification of identity, CDC provider assignment, and CDC needed for employment. See Exhibit 1. Claimant never submitted the verifications by the due date. On October 8, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective September 8, 2013, ongoing, due to her failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant testified that she never received the VCL or the written denial notice. Claimant testified that her address has been the same for several years. Moreover, Claimant testified that the address was notated correctly on the VCL and Notice of Case Action. Claimant testified that she does not have issues with her DHS correspondence or third party mail.

Additionally, Claimant testified that when they inquired on their application that is when they discovered their application was denied and was advised to reapply, which they did on November 21, 2013. Claimant also provided to the Department immediately via e-mail the verifications on November 20, 2013 after they discovered the application was denied. See Exhibit 1. Also, at the pre-hearing conference, Claimant testified that it appeared her case might have been switched with another case. It should be noted that the CDC provider verification was date stamped November 25, 2013, but it also was signed on September 3, 2013 by the Claimant. See Exhibit 1.

It should also be noted that the Department testified it did not receive any undeliverable mail and both the VCL and Notice of Case Action were sent to the Claimant via central print.

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 foregoing information and evidence, the Department properly denied Claimant's CDC application effective September 8, 2013, ongoing, in accordance with Department policy.

First, it is found that Claimant failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the VCL and Notice of Case Action to the Claimant. See Exhibit 1. The Department credibly testified it did not receive any undeliverable mail and it sent the notices via central print. The Department's credibility is supported by the fact that Claimant confirmed the address on the written notices were proper.

Second, because the notices were sent to the proper address, Claimant failed to submit the requested verifications by the due date. Claimant must complete the necessary forms to determine her initial CDC eligibility. BAM 105, p. 6. The Department can grant an extension, but it must be requested. See BAM 130, p. 6 and BEM 702, p. 1. However, no evidence indicates that such an extension request was made. It is evident that Claimant eventually submitted the documentation on November 20, 2013; however, this was after the denial notice. See Exhibit 1. Because the VCL and Notice of Case Action were properly mailed and Claimant failed to submit the requested verifications prior to the due date, the Department acted in accordance with Department policy when it denied Claimant's CDC application effective September 8, 2013, ongoing. BAM 105, p. 6; BAM 130, pp. 5-6; and BEM 702, pp. 1-2.

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 acted in accordance with Department policy when it properly denied Claimant's CDC application effective September 8, 2013, ongoing.

Accordingly, the Department's CDC decision is AFFIRMED.


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

Date Signed: February 18, 2014

Date Mailed: February 18, 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:

2014-14652/EJF

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

EJF/tlf

cc:

