

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-150
Issue No.: 3008, 6019
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Wayne (43)

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 October 23, 2013, 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 DHS properly terminated Claimant's Food Assistance Program (FAP) eligibility due to a Claimant failure to verify residence.

The second issue is whether DHS properly denied a Child Development and Care (CDC) application due to a Claimant failure to submit provider documentation.

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 an unspecified date in [REDACTED]/2013, Claimant applied for CDC benefits.
2. On an unspecified date, DHS requested a Child Development and Care Provider Verification (DHS-4025).
3. On [REDACTED]/13 or [REDACTED]/13, Claimant timely returned the DHS-4025 to DHS.
4. On an unspecified date, DHS denied Claimant's CDC application due to Claimant's alleged failure to submit a DHS-4025.

5. Claimant was an ongoing FAP benefit recipient.
6. On unspecified dates, DHS mailed correspondence to Claimant.
7. On unspecified dates, the correspondence mailed to Claimant was returned by the United States Postal Service (USPS) as undeliverable.
8. On an unspecified date, DHS requested verification of Claimant's address due to the undeliverable mail returned by the USPS.
9. Claimant failed to respond to the verification request by [REDACTED]/13.
10. On [REDACTED]/13, DHS terminated Claimant's FAP eligibility, effective 10/2013 due to Claimant's failure to verify her address.
11. On [REDACTED]/13, Claimant submitted a Request for Hearing while noting that her address had not changed.

CONCLUSIONS OF LAW

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 requested a hearing, in part, to dispute a CDC application denial. DHS did not provide notice verifying the basis for termination. DHS testified that the denial was based on Claimant's failure to submit a DHS-4025.

Among the required CDC verifications, clients are to verify the children in care, where the care began, where care is provided and the provider's relationship to the children with the DHS-4025, Child Care Provider Verification. BEM 702 (1/2011), p. 1. The form must be signed by both the parent and all provider types. *Id.*, pp. 1-2.

Claimant testified that she submitted the DHS-4025 on either [REDACTED]/13 or [REDACTED]/13. Claimant testified that she signed a drop-box log when she submitted the DHS-4025. During the hearing, DHS was asked to present the drop-box logs from [REDACTED]/13 and [REDACTED]/13. Generally, a party unable to present evidence within their control will have the evidence interpreted unfavorably against them. DHS was unable to present the drop-box logs. Following this general rule of interpretation results in a finding that Claimant

timely submitted a DHS-4025 to DHS. Accordingly, the CDC application denial was improper.

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. 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 FAP benefit termination affecting Claimant's [REDACTED]/2013 FAP eligibility. DHS failed to present a Notice of Case Action verifying the basis for termination. DHS presented testimony that the termination resulted from Claimant's failure to verify her address.

For FAP benefits, DHS is to verify that the individual lives in the area your office serves. BEM 220 (3/2013), p. 5. It was not disputed that Claimant previously verified her address. DHS stated that Claimant had to again verify her address, after mail sent to Claimant was returned by the USPS as undeliverable. After Claimant failed to respond to a Verification Checklist requesting residential address verification, DHS testified that case closure was appropriate. The DHS actions to this point were reasonable and supported by DHS regulations. Despite DHS properly following procedure through the date that case closure was initiated, Claimant still had time to verify her residence.

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). BAM 220 (7/2013), p. 2. Adequate notice is given when a recipient or his legal guardian or authorized representative requests in writing that the case be closed. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. *Id.*, p. 3. A timely notice is mailed at least 11 days before the intended negative action takes effect. *Id.* The action is pended to provide the client a chance to react to the proposed action. *Id.*

It is presumed that a termination of FAP benefits due to a failure to verify residence required timely notice of the closure. Thus, Claimant had at least 11 days to respond to the closure.

On [REDACTED]/13, DHS mailed Claimant a Notice of Case Action to the same address which previously resulted in undeliverable mail. On [REDACTED]/13, Claimant requested a hearing and noted that she had not changed her address. Claimant's response should have alerted DHS to the fact that Claimant's address had not changed, after all, Claimant could not submit the Request for Hearing form (it's part of the Notice of Case Action) unless she received the Notice of Case Action. No verification would have been needed, as DHS presumably already verified the address as Claimant's residence. DHS should have

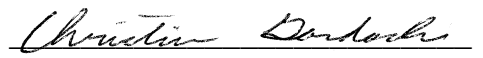
stopped the pending benefit termination upon receiving Claimant's Request for Hearing. It is found that DHS improperly terminated Claimant's FAP benefit eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FAP benefit eligibility, effective 10/2013. It is further found that DHS improperly denied Claimant's application for CDC benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FAP benefit eligibility, effective █/2013, subject to the finding that Claimant verified her residential address;
- (2) re-register Claimant's CDC application from an unspecified date in █/2013, subject to the finding that Claimant timely submitted a DHS-4025; and
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 10/31/2013

Date Mailed: 10/31/2013

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.

2014-150/CG

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:

