

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

IN THE MATTER OF:



Reg. No.: 201415192
Issue No.: 6002
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Grand Traverse

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 16, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Family Independence Specialist) and [REDACTED] (Assistance Payments Specialist).

ISSUE

Did the Department properly deny Claimant's application for Child Development and Care (CDC) because Claimant failed to comply with the verification requirements?

FINDINGS OF FACT

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

1. Claimant applied for CDC on August 27, 2013.
2. On or about October 8, 2013, the Department mailed Claimant a Verification Checklist (DHS-3503) requesting a completed Child Care Provider Verification Form (DHS-4025) by October 18, 2013.
3. On October 22, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's CDC application, effective August 25, 2013, due to failure to provide requested verification information.
4. Claimant requested a hearing to dispute the CDC application denial on October 29, 2013.

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 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.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 (1-1-2014). Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM 105, p 18. Clients must take actions within their ability to obtain verifications. BAM 130 and BEM 702 (1-1-2014).

Verifications are considered timely if received by the date they are due. BAM 130. For CDC, the department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. But if the CDC client cannot provide the verification despite a reasonable effort, the department shall extend the time limit at least once. BAM 130. For all programs, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105, p 13 (1-1-2014).

Here, the Department asserts that it denied Claimant's CDC application because Claimant failed to return verification regarding his CDC provider. Claimant, on the other hand, contends that he left a voicemail message with his department caseworker and requested assistance with the verification checklist but he did not receive a return call.

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). 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). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Claimant's testimony that he received the DHS-3503 on October 17, 2013 is credible. In addition, this Administrative Law Judge also believes Claimant when he stated that, on October 21, 2013, he left a voicemail with his caseworker regarding assistance with the verifications and that his message was not returned. During the hearing, Claimant's caseworker did not dispute Claimant's allegations. Although it was after the October 18, 2013 due date to provide verification, this Administrative Law Judge finds that Claimant made a reasonable effort to provide the requested verification and that BAM 130 required his caseworker to extend his deadline. Alternatively, the caseworker did not comply with BAM 105, p 13 which requires the department to assist clients who ask for help in completing forms or gathering verifications.

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 did not act in accordance with Department policy when it denied Claimant's August 27, 2013 application for CDC for failure to provide requested verifications.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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. The Department shall recertify and reprocess Claimant's August 27, 2013 CDC application.
2. The Department shall redetermine Claimant's CDC eligibility back to the August 27, 2013.
3. To the extent required by policy, the Department shall provide Claimant with supplemental and/or retroactive CDC benefits.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 17, 2014

Date Mailed: January 17, 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

CAP/aca

cc:

