

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

IN THE MATTER OF:



Reg. No.: 2014-32947
Issue No(s): 1000
Case No.: [REDACTED]
Hearing Date: April 17, 2014
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 17, 2014, from Detroit, Michigan. Participants on behalf of Claimant included The Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist, [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly deny the Claimant's CDC application?
Was the Claimant's hearing request dated March 13, 2014 protesting the denial of her FIP cash assistance application timely?

FINDINGS OF FACT

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

1. The Claimant applied for FIP cash assistance on November 25, 2013. The Department Denied the Claimant's FIP application by Notice of Case Action dated November 26, 2013 due to excess income.
2. The Claimant applied for CDC benefits on November 25, 2013 and was sent a verification checklist dated 11/27/13 due December 6, 2013. Exhibit 3
3. The Claimant's CDC provider's enrollment expired on December 7, 2013. Exhibit 2.

4. The Claimant was advised that her care provider had to be licensed and provided the Claimant a CDC care provider verification. Exhibit 4.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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.

FIP Application Denial Timeliness of Hearing Request

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the Claimant, petitioner, or authorized representative. Mich Admin Code, R 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (3/1/14), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to deny Claimant's application for benefits for the Family Independence Program. The Department's Notice of Case Action to Claimant was dated November 26, 2013. However, Claimant did not file a request for hearing to contest the Department's action until March 13, 2014. The Claimant also requested a hearing regarding the Department's non-payment due to her provider's inability to bill for a back billing for services in 2011. This request is also untimely.

Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction.

Child Development and Care Issue

The Department did not produce the December 16, 2013 Notice of Case action which denied the Claimant's CDC application dated November 25, 2013. The Department believed the application was denied because verifications were not received and in particular the CDC Care Provider Verification which was not in the Department case file. At the hearing, the Claimant testified under oath and credibly that she faxed the CDC provider verification form on December 2, 2013 and used a fax at her father's place of business. The Department did receive other faxed information consisting of pay stubs in support of the Claimant's CDC application, but not the provider verification. Under these circumstances, it is determined that the Claimant did provide the CDC provider verification in a timely manner, but the Department did not receive it and therefore the denial of the November 25, 2013 application for failure to verify was not correct under these circumstances. The Department made mention that the original of the CDC provider verification was not attached to the pay stubs which the Claimant also brought to the hearing as a reason to support that provider verification was faxed. After weighing all the evidence and testimony of the parties, it is determined that provider verification was faxed by the Claimant on December 2, 2013 and before the December 6, 2013 due date, and therefore the application should not have been denied as there is no evidence that the Claimant refused to provide information or otherwise failed to cooperate. BAM 130 pp.5, (4/1/14)

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 found the hearing request untimely with regard to FIP application denial and CDC payments allegedly not paid in 2011.
- did not act in accordance with Department policy when it denied the November 25, 2013 application for failure to provide a CDC Provider Verification.

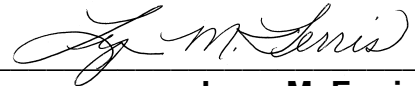
DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED IN PART with respect to the untimeliness of the Claimant's request for hearing regarding the denial of the 11/25/13 FIP application and the Department's failure to pay 2011 CDC provider payments as untimely hearing requests and REVERSED IN PART with respect to the Department's denial of Claimant's 11/25/13 CDC application for failure to verify information.

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 re register the Claimant's 11/25/13 application for CDC and process the application and the CDC Provider Verification dated December 2, 2013 to determine eligibility.
2. The Department shall provide notice to the Claimant regarding its action regarding the re-registered CDC application and its eligibility determination.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 6, 2014

Date Mailed: May 6, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

LMF/tm

cc:

