

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

IN THE MATTER OF:



Reg. No.: 15-005411
Issue No.: 3002, 6002
Case No.: [REDACTED]
Hearing Date: May 19, 2015
County: Genesee-District 6

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on May 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED] as hearings facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits?

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 March 5, 2015, the Department received the Claimant's application for Child Development and Care (CDC) benefits.
2. On March 6, 2015, the Department sent the Claimant an Appointment Notice (DHS-170) notifying her of an in-person interview scheduled for March 11, 2015.
3. On March 6, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of a bank statement from [REDACTED] and verification of employment by March 16, 2015, and notifying the Claimant of the requirement to complete an eligibility interview.
4. On March 9, 2015, the Claimant provided a copy of a bank statement from [REDACTED] and some paycheck stubs.
5. On March 17, 2015, the Department notified the Claimant that it had denied her application for Child Development and Care (CDC) benefits and closed her Food Assistance Program (FAP) benefits.

6. On March 30, 2015, the Department received the Claimant's request for a hearing protesting the denial of Child Development and Care (CDC) benefits and the closure of Food Assistance Program (FAP) benefits.

CONCLUSIONS OF LAW

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

Clients must cooperate with the local office in determining initial and ongoing eligibility and this includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (October 1, 2014), p 5.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. The Department uses documents, collateral contacts, or home calls to verify information. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. When documentation is not available, or clarification is needed, collateral contact may be necessary. Department of Human Services Bridges Assistance Manual (BAM) 130 (October 1, 2014), pp 1-9.

On March 5, 2015, the Department received the Claimant's application for Child Development and Care (CDC) benefits. On March 6, 2015, the Department sent the Claimant an Appointment Notice (DHS-170) notifying her of an in-person interview scheduled for March 11, 2015. On March 6, 2015, the Department sent the Claimant a Verification Checklist (DHS-3503) requesting verification of a bank statement from [REDACTED] and verification of employment by March 16, 2015. The Verification Checklist also notified the Claimant of the requirement to participate in an eligibility interview since the Department had been unable to contact the Claimant by telephone with questions about

her application. On March 9, 2015, the Claimant provided the Department with a copy of a bank statement from [REDACTED] and some paycheck stubs. On March 17, 2015, the Department notified the Claimant that it had denied her CDC application and closed her FAP benefits for failing to cooperate with the eligibility interview and failing to verify all assets.

The Claimant testified that an unstable housing situation is a barrier to her participation in an eligibility interview and receiving all written requests for information by the Department.

While a presumption arises that a letter with a proper address and postage will, when placed in the mail be delivered by the postal service, this presumption can be rebutted with evidence that the letter was not received. If such evidence is presented, as it was here, then a question of fact arises regarding whether the letter was received. [Citations omitted.] *Goodyear Tire & Rubber Co v Roseville*, 468 Mich 947; 664 NW2d 751 (2003).

In this case, the Department presented substantial evidence that the Department sent it notices to her mailing address of record and the Claimant failed to rebut the presumption of receipt.

The Claimant testified that the Department discriminated against her after she reported to the legislative ombudsman that she had received poor service from the Department.

A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the department personnel director. Mich Admin Code, R 400.903.

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 was acting in accordance with policy when it denied the Claimant's Child Development and Care (CDC) application and closed her Food Assistance Program (FAP) benefits after the Claimant failed to make a reasonable attempt to provide the Department with the information necessary to make an accurate eligibility determination.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/21/2015**

Date Mailed: **5/21/2015**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

cc:

