

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017434
Issue No.: 3008, 6001
Agency Case No.: [REDACTED]
Hearing Date: January 11, 2016
County: Wayne 17 Greenfield/Joy

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on January 11, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's Child Development and Care (CDC) application and close the Petitioner's Food Assistance Program (FAP) case?

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 Petitioner applied for CDC on August 23, 2015.
2. The Department issued a Verification Checklist (VCL) on September 25, 2015, requesting information with regard to Petitioner's CDC application. The VCL requested the last 30 days of check stubs or earnings statement and a Child Care Provider Verification, Exhibit 1. The requested verifications were due on October 5, 2015.
3. The Petitioner provided verification of her husband's pay stubs to the Department on October 6, 2015, and was advised by the caseworker that the Petitioner's pay stubs were not necessary as the Department had the pay information based upon online information.

4. The Petitioner received the VCL after her request for the hearing.
5. After receiving the VCL, the Petitioner spoke with her caseworker and was told to provide her husband's pay stubs. The Petitioner returned the pay stubs on October 6, 2015. The Petitioner began her employment on September 8, 2015, after filing the application and advised the Department in the application she would be working [REDACTED] hours and receiving \$ [REDACTED] per hour. The Petitioner did not provide pay stubs because the caseworker told her she did not need to provide them but had to provide her husband's pay stubs, which she did on October 6, 2015.
6. On a date unknown, the Department issued a Notice of Case Action denying the Petitioner's application for CDC due to net income exceeding the entry limit for the CDC program. The Department also closed the Petitioner's FAP case for the reason that the Petitioner did not give the Department information Petitioner was asked to provide. The Department indicated that it used gross earned income of \$ [REDACTED]. This information was attached to the hearing request. No rent was included when calculating the Petitioner's FAP benefits.
7. The Department issued a Notice of Case action prior to issuing a VCL. The Department stated that no rent verification was provided, but it did not provide evidence that it requested shelter verification.
8. The Petitioner requested a timely hearing on September 18, 2015, protesting the Department's actions.

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.

In this case, the Department was unable to provide any evidence regarding its actions in this case. The Hearing Summary indicated that the CDC case was denied in error. The Petitioner credibly testified that she believed the CDC was denied; and the FAP closed on September 17, 2015. The Hearing Request in this case was dated September 18, 2015, the next day and was sent **before** the VCL was issued. Exhibit 1. At the hearing, the Department contended that the FAP closed due to no return of a Shelter Verification. The Petitioner credibly testified that she never received a shelter verification request, and the Department did not provide the document at the hearing. The CDC application was not provided.

The Department conceded that it closed the CDC in error in its Hearing Summary. The Hearing Summary did not address the FAP case closure even though the hearing request clearly requested a hearing regarding FAP benefits. Under these facts, the undersigned cannot look at the Department's subsequent actions as they occurred **after** the request for hearing. The CDC and FAP were pending at the time of the hearing and the Department could not advise what the status was. The Department never provided the Notice of Case Action that was requested to be provided after the hearing that precipitated the hearing request. The information provided in the hearing packet and the Hearing Summary itself did not meet the requirements of BAM 600, which provides:

Complete a DHHS-3050, Hearing Summary, prior to the meaningful prehearing conference. In the event additional space is required to complete the DHHS-3050, Hearing Summary, attach a Word document to the DHHS-3050 and number the Word document accordingly. All case identifiers and notations on case status must be complete.

The hearing summary must include all of the following:

- A clear statement of the case action, in chronological order, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the client and the AHR.
- Description of the documents the local office intends to offer as exhibits at the hearing.

Number the document copies consecutively in the lower right corner; begin numbering with the hearing summary. BAM 600 (October 1, 2015), p. 20.bb

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it

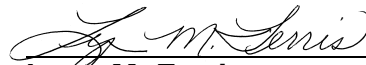
denied the Petitioner's August 23, 2015, CDC application and closed the Petitioner's FAP case for failure to provide information requested.

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 reregister the CDC application dated August 23, 2015, and process the application in accordance with Department policy and properly determine CDC eligibility in accordance with Department policy.
2. The Department shall reinstate the Petitioner's FAP case and determine ongoing eligibility. The Department is to provide shelter verification to the Petitioner, if one is necessary for its eligibility determination.
3. The Department shall issue CDC and FAP supplements for benefits, if any, the Petitioner was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **1/19/2016**

LMF/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

