

**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.: 15-021325
Issue No.: 6000
Agency Case No.: [REDACTED]
Hearing Date: January 27, 2016
County: WAYNE-DISTRICT 19

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 telephone hearing was held on January 27, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Petitioner request a hearing within 90 days of the Department's June 20, 2015 Notice of Case Action closing her Child Development and Care (CDC) 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 Department sent the Petitioner a Verification Checklist (VCL) on May 22, 2015, with a due date of June 1, 2015, regarding missing check stubs. Exhibit 2
2. The Department sent a Notice of Case Action on June 20, 2015, closing the Petitioner's CDC case effective July 12, 2015, for failure to verify missing check stubs. Exhibit 3.
3. The Petitioner requested a hearing on November 4, 2015.

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 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 issued a Notice of Case Action on June 20, 2015, closing the Petitioner's CDC case for failure to provide pay stubs by June 1, 2015. The CDC case closed on July 12, 2015 (Exhibit 3). The Notice of Case Action was sent to the Petitioner at the correct address and Petitioner acknowledged that it was received by her. The Petitioner requested a hearing on November 4, 2015, protesting the Department's closure of her CDC case. Unfortunately, a 43-minute hearing was held without the undersigned realizing that the timeliness of the hearing request was at issue. The timeliness of the request was discovered after the hearing when the file was reviewed, so that a Hearing Decision could be written. The Department should have discovered that the hearing request was untimely at the time the Hearing Summary was prepared. Notwithstanding the fact that the hearing was conducted, and the undersigned indicated that she would decide the effect of the submission of wage verifications before the CDC case closed, the undersigned must follow Department policy and determine if the hearing request regarding the CDC closure was timely.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of

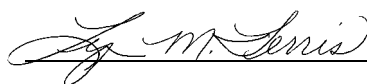
Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2015), p. 2. Moreover, **BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.**

In the present case, the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision closing Petitioner's CDC case on June 20, 2015. The Petitioner testified that she received the Notice.

The Department's Notice of Case Action to Petitioner was dated June 20, 2015. Exhibit 7. However, Petitioner did not file a request for hearing to contest the Department's action until November 4, 2015. The Petitioner had until September 18, 2015 to file a timely hearing request. Exhibit 3, p. 4.

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

IT IS SO ORDERED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/25/2016**

Date Mailed: **2/25/2016**

LMF/tm

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:

