



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 20, 2018
MAHS Docket No.: 18-006928
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 42 CFR 438.400 to 438.424; 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 August 15, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Gwendolyn Manning, specialist, and Lesley Coffee, manager.

ISSUES

The first issue is whether MDHHS timely processed Petitioner's Child Development and Care (CDC) application.

The second issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was an ongoing FIP recipient.
2. On February 27, 2018, following the end of Petitioner's deferral from Partnership. Accountability. Training. Hope. (PATH), MDHHS mailed Petitioner a PATH Appointment Notice informing Petitioner of a PATH appointment scheduled for March 9, 2018 (Exhibit A, p. 4).
3. On March 9, 2018, Petitioner failed to attend PATH. MDHHS subsequently determined that Petitioner established good cause due to a lack of child care.

4. On March 27, 2018, MDHHS mailed Petitioner a PATH Appointment Notice informing Petitioner to attend PATH orientation on April 6, 2018.
5. On April 2, 2018, Petitioner applied for CDC benefits. (Exhibit A, pp. 7-33)
6. On an unspecified date, MDHHS approved Petitioner's CDC application (see Exhibit A, p. 39).
7. On April 6, 2018, Petitioner failed to attend PATH.
8. On April 27, 2018, MDHHS mailed Petitioner a Notice of Noncompliance informing Petitioner that she was noncompliant due to a failure to begin PATH participation. (Exhibit A, pp. 36-37). MDHHS scheduled a triage for May 4, 2018.
9. On May 4, 2018, during a triage, Petitioner informed MDHHS that she was unable to find a suitable CDC provider. MDHHS informed Petitioner that she would be given a final opportunity to attend PATH on May 11, 2018 (see Exhibit A, p. 38).
10. On May 11, 2018, Petitioner failed to attend PATH.
11. On an unspecified date, MDHHS terminated Petitioner's CDC eligibility.
12. On July 2, 2018, Petitioner applied for CDC benefits.
13. As of July 9, 2018, MDHHS had not processed Petitioner's CDC application dated July 2, 2018. (Exhibit A, pp. 2-3)
14. As of July 9, 2018, MDHHS had not mailed Petitioner a written notice which informed Petitioner of a FIP termination, policy supporting FIP termination, reason for FIP termination, Petitioner's right to request a hearing, and/or the conditions for which Petitioner may continue receiving benefits pending the outcome of hearing.
15. On July 9, 2018, MDHHS received Petitioner's hearing request disputing termination of FIP eligibility. Petitioner also objected to MDHHS' failure to process her CDC application dated July 2, 2018.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner's hearing request complained that she had not received a decision concerning her CDC application dated July 2, 2018. Petitioner stated that her CDC application was verbally denied.

The standard of promptness (SOP) begins the date MDHHS receives an application/filing form, with minimum required information. MDHHS has 30 days to process CDC applications. BAM 115 (January 2018) pp. 16-17.

As of Petitioner's hearing request date, only seven days passed since Petitioner applied for CDC benefits. Thus, MDHHS had not violated their standard of promptness as 23 days remained to process Petitioner's CDC application. Though Petitioner may have been verbally advised of a denial, Petitioner is not entitled to an administrative remedy until written notice is sent or at least the standard of promptness has passed (see BAM 600). Without any basis for an administrative remedy, Petitioner's hearing request will be dismissed concerning her CDC application dispute. Now that the standard of promptness has passed, Petitioner is encouraged to request a hearing if her application was denied or remains unprocessed.

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 Department of Human Services) 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-.3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute a termination of FIP benefits. MDHHS testimony and evidence indicated that Petitioner's FIP eligibility ended due to Petitioner's repeated failure to attend PATH. Much of the hearing discussion was committed to determining whether Petitioner had good cause for failing to attend PATH orientation. As it happens, good cause is irrelevant because of a procedural failure by MDHHS.

For all programs, upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.

- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. (BAM 220 (April 2017), p. 2.)

MDHHS contended that a Notice of Noncompliance sent to Petitioner on May 23, 2018, serves as proper written notice. The MDHHS contention is unpersuasive as the Notice of Noncompliance did not contain any of the requirements for proper notice of a case action. A Notice of Case Action is a form utilized by MDHHS which meets all of the notice requirements of BAM 220. Traditionally, MDHHS mailed a Notice of Case Action on the same date that a Notice of Noncompliance is mailed. During the hearing, MDHHS was given an opportunity to verify that a Notice of Case Action, or any other notice meeting the requirements of BAM 220, was sent to Petitioner; MDHHS testimony conceded that a Notice of Case Action was not sent to Petitioner.

Given the evidence, MDHHS failed to provide Petitioner with proper written notice of FIP closure. Without proper written notice, the FIP termination is improper. Petitioner is entitled to reinstatement of FIP eligibility due to MDHHS' lack of written notice.

DECISION AND ORDER

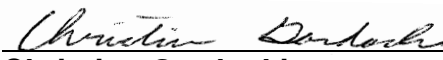
The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to establish a basis for administrative remedy concerning a CDC application dated July 2, 2018. Concerning Petitioner's CDC dispute, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's FIP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's FIP eligibility effective July 2018 subject to the finding that MDHHS failed to issue proper written notice of closure; and
- (2) Supplement Petitioner for any benefits improperly not issued.

The actions taken by MDHHS are **REVERSED**.

CG/


Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; 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

DHHS

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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BSC4
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