



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: November 16, 2017
MAHS Docket No.: 17-012021-RECON
Agency No.: ██████████
Petitioner: ██████████

SUPERVISING ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to the timely request for rehearing and/or reconsideration made by Michigan Department of Education (MDE) of the Hearing Decision issued by the assigned Administrative Law Judge (ALJ), Gary Heisler, at the conclusion of the hearing conducted on ██████████ 2017, and mailed on ██████████ 2017, in the above-captioned matter.

The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on ██████████ 2017.

ISSUE

Did the ALJ err in affirming the Department of Health and Human Services' (Department's) denial of Petitioner's ██████████ 2017 application for child development and care (CDC) benefits?

FINDINGS OF FACT

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

1. On [REDACTED] 2017, a hearing was held in the above captioned matter resulting in a Hearing Decision mailed on [REDACTED] 2017.
2. The Findings of Fact numbers 1 through 5 in the Hearing Decision are incorporated by reference.
3. In her CDC application, Petitioner identified her and her children as homeless (Exhibit A, pp. 32-36).
4. In the Hearing Decision, the ALJ concluded that, because Petitioner had failed to cooperate with the Office of Child Support (OCS), the Department of Health and Human Services (Department) properly denied her [REDACTED] 2017 application for CDC benefits.
5. On [REDACTED], 2017, the Michigan Administrative Hearing System (MAHS) received the request for reconsideration and/or rehearing submitted by the Michigan Department of Education (MDE).
6. On [REDACTED] 2017, MAHS granted MDE's request for reconsideration limited to the issue of whether the ALJ erred in affirming the Department's denial of Petitioner's CDC application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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 the Hearing Decision, the assigned ALJ concluded that, because Petitioner was in noncooperation with child support and acknowledged that she had not provided OCS with sufficient information concerning her children's father, the Department properly denied Petitioner's CDC application.

Under Department policy, there are six CDC eligibility groups: children's protective services, foster care, FIP-related, migrant farmworkers, homeless, and income eligible. BEM 703, pp. 3, 12, 13. Only groups seeking CDC on the basis of income are disqualified from eligibility if they have failed, without good cause, to cooperate with all

requests by OCS for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance. BEM 255 (██████████ 2017), pp. 1, 9; BEM 703, pp. 3, 13.

In her ██████████ 2017 application, Petitioner identified herself and her children as homeless and listed her address as ██████████ ██████████ Michigan, which is the address for ██████████ Exhibit A, pp. 32-36, 42; <http://gsrmbaycity.org/>. Because Petitioner was homeless, her CDC application should have been processed for eligibility under the standards for homelessness. Because homeless individuals are not ineligible for CDC due to noncooperation with their child support reporting obligations, the ALJ erred when he concluded that the Department properly denied Petitioner's application on the basis of child support noncooperation.

Therefore, the ALJ misapplied manual policy or law in the Hearing Decision and, as a result, improperly affirmed the Department's denial of Petitioner's ██████████ 2017 CDC application on the grounds that she was in noncooperation with child support reporting obligations.


DECISION AND ORDER

Accordingly, the ALJ's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION ON RECONSIDERATION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Petitioner's ██████████ 2017 application for CDC benefits;
2. If Petitioner is eligible for CDC on the basis of homelessness, issue benefits to Petitioner's CDC provider for any CDC benefits Petitioner was eligible to receive but did not from ██████████, 2017 ongoing; and
3. Notify Petitioner in writing of its CDC decision.

ACE/tm


Alice C. Elkin
Supervising 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 to the Michigan Administrative Hearing System.

DHHS

Kim Cates
1399 W. Center Road
Essexville, MI
48732

Department Representative

Office of Child Support (OC)-MDHHS
201 N Washington Square
Lansing, MI
48933

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI
[REDACTED]

cc: CDC: Lisa Brewer-Walraven