



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 28, 2020
MOAHR Docket No.: 19-013617
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 January 30, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brad Reno, hearing facilitator.

ISSUES

The first issue is whether Petitioner timely requested a hearing to dispute the denial of a Child Development and Care (CDC) application dated [REDACTED], 2019.

The second issue is whether MDHHS properly started Petitioner's CDC eligibility beginning November 10, 2019 for an application dated [REDACTED] 2019.

The third issue is whether MDHHS properly denied Petitioner's CDC application dated [REDACTED] 2019.

The fourth issue is whether MDHHS properly denied Petitioner's CDC application dated [REDACTED] 2019

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 [REDACTED] 2019, Petitioner applied for CDC benefits.
2. On August 12, 2019, MDHHS denied Petitioner's application dated [REDACTED], 2019, and sent written notice of denial to Petitioner.

3. On [REDACTED] 2019, Petitioner reapplied for CDC benefits.
4. On an unspecified date between August 19, 2019, and September 20, 2019, Petitioner submitted a copy of her driver's license to MDHHS.
5. On September 20, 2019, MDHHS denied Petitioner's application dated [REDACTED], 2019, and sent written notice to Petitioner. The reason for denial was Petitioner's alleged failure to verify her residence.
6. On [REDACTED] 2019, Petitioner applied for CDC benefits for a third time. Exhibit A, pp. 7-10.
7. On October 17, 2019, MDHHS mailed a VCL requesting verification of Petitioner's address. Exhibit A, pp. 11-12.
8. On November 4, 2019, MDHHS denied Petitioner's application dated [REDACTED], 2019, due to a failure to verify her residence. Exhibit A, pp. 14-17.
9. On [REDACTED], 2019, Petitioner applied for CDC benefits for a fourth time. Exhibit A, pp. 18-22.
10. On November 19, 2019, MDHHS received a copy of Petitioner's driver's license.
11. On an unspecified date, MDHHS approved Petitioner's CDC eligibility beginning November 10, 2019. Exhibit A, p. 31.
12. On [REDACTED] 2019, Petitioner requested a hearing to dispute the absence of CDC benefits from August 2019 through November 9, 2019.

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 requested a hearing to dispute CDC eligibility. Exhibit A, pp. 5-6. Petitioner specifically disputed an absence of CDC benefits from mid-August 2019 to November 9, 2019. Petitioner's dispute encompasses four different CDC applications she filed with MDHHS. The analysis will begin with Petitioner's application dated [REDACTED], 2019.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (August 2018), p. 6. Hearing requests disputing CDC eligibility must be submitted to MDHHS in writing. *Id.*, p. 2.

Petitioner requested a hearing on [REDACTED], 2019. It was not disputed that MDHHS mailed Petitioner a denial notice for her [REDACTED] 2019 application on August 12, 2019. Petitioner requested a hearing 126 days after MDHHS mailed written notice of denial. Thus, Petitioner was untimely in disputing the denial of her application dated [REDACTED] 2019. Concerning this dispute, Petitioner's hearing request is appropriately dismissed due to being untimely.

Petitioner also disputed the processing of her application dated [REDACTED], 2019. MDHHS approved Petitioner's application and began CDC benefits for Petitioner on November 10, 2019. Petitioner contended that MDHHS should have approved her for CDC benefits back to August 2019.

The first day that a CDC provider may be assigned to a child is the latest of the following:

- The CDC application receipt date (unless for foster care)
- The date that the child care need begins.
- The date the provider becomes eligible for subsidy payments.
- 60 calendar days prior to the receipt of a completed DHS-4025

BAM 115 (October 2019), p. 28.

Based on Petitioner's application dated [REDACTED], 2019, Petitioner would not be entitled to CDC eligibility any earlier than the beginning of the CDC period containing November 18, 2019. The begin date of the pay period containing November 18, 2019, is November 10, 2019. MDHHS approved Petitioner for CDC benefits beginning November 10, 2019. Thus, MDHHS properly did not issue CDC benefits to Petitioner sooner than November 10, 2019, when processing Petitioner's application dated [REDACTED] 2019.

Petitioner also disputed the denial of a CDC application she subsequently submitted to MDHHS on [REDACTED] 2019. A hearing facilitator testified that a Notice of Case Action dated September 20, 2019, stated that Petitioner's application was denied due to a failure to verify residence and income. During the hearing, a hearing facilitator acknowledged that application denial based on failing to verify income was improper; thus, Petitioner's alleged failure to verify residence was the only potentially proper basis for denying Petitioner's application. MDHHS also denied Petitioner's application dated [REDACTED], 2019, due to Petitioner allegedly not verifying her residence.

For CDC, a person must be a Michigan resident. BEM 220 (April 2018) p. 1. At application, a client's address must be verified BEM 702 (October 2018) pp. 1-2. Acceptable verifications of residency/address include a driver's license, other identification which provides a name and address, mortgage or rent receipt, utility bill,

and/or collateral contact with a person who knows the individual's living arrangement. BEM 220 p. 7.

MDHHS is to use a VCL to inform the client of what verifications are needed at application and redetermination. All verifications must be included in the case record. BEM 702 (October 2018) p. 1. The client is allowed a full 10 calendar days from the date verification is requested (the date of request is not counted) to provide the requested information. *Id.* MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130 (April 2017) p. 1.

Concerning her application dated [REDACTED] 2019, Petitioner testified that she faxed a copy of her driver's license to MDHHS in a timely fashion. Petitioner testified she had no corroboration (e.g. a fax confirmation) for her testimony. MDHHS' hearing packet did not include evidence rebutting Petitioner's claim.

Concerning Petitioner's CDC application dated [REDACTED] 2019, Petitioner testified that she photographed her driver's license and uploaded the photo through MIBridges.¹ Petitioner testified that she uploaded the photo to MDHHS on the same date that one of her CDC applications was denied. Petitioner testified that she recalled this because she remembered a specialist telling her that her application was denied shortly after her upload. To rebut Petitioner's testimony, MDHHS presented documentation of Petitioner's electronic case file (ECF) from October 4, 2019, through December 16, 2019. Exhibit A, p. 13. The ECF is a list of the documents received by MDHHS concerning a client's case. Notably, the only listed document which could conceivably construed as verification of residency was received by MDHHS on November 19, 2019.

Petitioner is essentially claiming that she twice submitted a copy of her license and that MDHHS twice lost/misrouted her submission. Petitioner's claims were unverified and uncorroborated, but at least first-hand. MDHHS presented no documentary evidence rebutting Petitioner's claim of a timely license submission related to her application dated [REDACTED], 2019. MDHHS might have rebutted Petitioner's testimony by presenting ECF documentation from August 2019 which did not list any submission by Petitioner concerning residency; MDHHS did not do so.

Petitioner's testimony was overall, generally credible. Petitioner essentially admitted that the submission of her license to MDHHS in October 2019 occurred after denial of her application. Such an admission was not helpful to Petitioner's, though she made it nonetheless. Petitioner's admission bolstered the credibility to her claim that she timely submitted proof of residency to MDHHS for her CDC application from [REDACTED] 2019.

Given the evidence, MDHHS properly denied Petitioner's application dated [REDACTED] 2019, due to Petitioner's tardy submission of her driver's license. Concerning

¹ MIBridges is an app which allows clients to electronically send documents to MDHHS.

Petitioner's application dated [REDACTED], 2019, it is found that Petitioner timely submitted to MDHHS proof of her residency. Thus, the application denial based on Petitioner's failure to verify residency was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute the denial of her CDC application dated [REDACTED], 2019. Concerning Petitioner's application dated [REDACTED] 2019, Petitioner's hearing request is **DISMISSED**.


The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application dated [REDACTED], 2019. Additionally, MDHHS properly processed Petitioner's application dated [REDACTED], 2019. Concerning the processing of Petitioner's applications dated [REDACTED], 2019, and [REDACTED], 2019, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's CDC application dated [REDACTED] 2019. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister CDC Petitioner's application dated [REDACTED], 2019;
- (2) Process Petitioner's CDC application subject to the finding that Petitioner timely returned a copy of her driver's license.

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

CG/cg



Christian Gardocki
Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Genesee-Union St.-Hearings
L. Brewer-Walraven
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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