



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] MI [REDACTED]

Date Mailed: February 23, 2021
MOAHR Docket No.: 21-000086
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 February 17, 2021, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by April Nemec Hearing Facilitator. Department Exhibit 1, pp. 1-84 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Child Day Care and Development (CDC) application for failing to return verifications?

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] 2020, Petitioner applied for CDC benefits.
2. On December 8, 2020, a verification checklist was sent to Petitioner, requesting verifications. (Ex., 1, pp. 31-33)
3. On December 9, 2020, Petitioner submitted verifications.
4. On January 4, 2021, Notice of Case Action was sent to Petitioner informing her that her CDC application was denied and her FAP was closed. (Ex., 1, pp. 55-57)
5. On January 11, 2021, Petitioner submitted verifications.

6. On January 13, 2021, Petitioner requested hearing disputing the denial of her CDC application. (Ex., 1, pp. 6-8)
7. Petitioner testified at hearing that she was satisfied with the Department action on her FAP case.

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.

Obtaining Verification All Programs

Tell the client what verification is required, how to obtain it, and the due date BAM 130

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

In this case, the verification checklist issued on December 8, 2020, did not specifically instruct Petitioner of the requirement to provide a statement from her employer and that she was not providing day care to her own child. (Ex. 1, pp.31-33) The notes reflect that Petitioner was purportedly told that by her caseworker, but the caseworker did not testify at hearing. Petitioner credibly testified that she was not instructed to provide a statement from her employer. Also, even if Petitioner had been told by her caseworker, Petitioner should have been clearly instructed to do so in writing in the verification checklist. Therefore, it was improper and incorrect to deny Petitioner's CDC application for failing to submit verifications when Petitioner was not clearly instructed in writing regarding what verifications were required. BAM 130

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 Petitioner's CDC application for failing to return verifications.

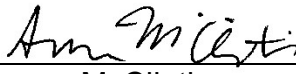
DECISION AND ORDER

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. Reinstate and reprocess Petitioner's CDC application going back to the date of application.
2. Issue a verification checklist clearly instructing Petitioner what verifications are required to process her CDC application.
3. Award benefits going back to the date of application if Petitioner is found eligible.

AM/ml



Aaron McClintic
Administrative Law Judge
for Elizabeth Hertel, 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

DHHS

Tamara Morris
Genesee (Union St.) County DHHS – via
electronic mail

BSC2 – via electronic mail

L. Brewer-Walraven – via electronic mail

Petitioner

██████████ – via first class mail
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