



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: May 14, 2021
MOAHR Docket No.: 21-001788
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 May 12, 2021. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Bruce McDonald, Assistance Payments Worker, and Corlette Brown, Hearings Facilitator.

ISSUE

Did the Department properly process Petitioner's claim of a missing warrant payment for Child Development and Care (CDC) benefits?

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 December 19, 2019, a payment was issued to Petitioner's CDC provider.
2. In January 2020, Petitioner reported the payment as lost, stolen, or not received to the Department, but the Department did nothing to process Petitioner's statement.
3. Petitioner filed a police report and contacted the Department of Treasury regarding the payment.
4. In March 2020, the local office gave Petitioner an Affidavit Claiming Lost, Destroyed, Not Received or Stolen State Treasurer's Warrant but sent her to another local office to have it notarized.
5. The second local office notarized the affidavit and kept it, but never processed it or forwarded it to the original local office.

6. After a year of repeated efforts to follow up on the status of her affidavit, Petitioner filed a hearing request on March 29, 2021 disputing the Department's failure to process her affidavit.

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, Petitioner disputes the Department's failure to process her affidavit and issue payment for lost or stolen CDC benefits. The Department was unable to provide any level of detail as to the status of Petitioner's affidavit or the events leading to the hearing request. Petitioner credibly testified that she took the affidavit to the nearby local office as advised by her regular Department office to have it notarized and the second office kept the document after it was notarized. From this point, no one knows what happened to Petitioner's affidavit. Therefore, the Department has not met its burden of proof in establishing that it acted in accordance with Department policy in processing Petitioner's Affidavit.

The parties are advised that policy indicates that the following individuals are not permitted to be assigned to or paid for the care of a CDC eligible child: a member of the CDC group, the applicant or client, or among other individuals, the parent or legal guardian of the children in care. BEM 706 (October 2019), p. 15.

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 did not act in accordance with Department policy when processing Petitioner's Affidavit Claiming Lost, Destroyed, Not Received or Stolen State Treasurer's Warrant.

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. Process Petitioner's Affidavit Claiming Lost, Destroyed, Not Received or Stolen State Treasurer's Warrant;
2. Notify Petitioner in writing of its decision; and,
3. Issue supplements for CDC benefits not previously received.

AMTM/cc



Amanda M. T. Marler
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

Via Email:

MDHHS-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
L. Brewer-Walraven
MOAHR

Petitioner- Via USPS:

