

[REDACTED]

APPELLANT

v.

MARYLAND STATE DEPARTMENT
OF EDUCATION

* BEFORE WILLIAM F. BURNHAM,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH No.: MSDE-[REDACTED] 21-19-04467

* * * * *

DECISION

STATEMENT OF THE CASE
ISSUE
SUMMARY OF THE EVIDENCE
FINDINGS OF FACT
DISCUSSION
CONCLUSION OF LAW
ORDER

STATEMENT OF THE CASE

On December 3, 2018, the Appellant submitted an application¹ for Child Care Subsidy (CCS) program benefits (vouchers).² On December 31, 2018, the Maryland State Department of Education (MSDE), through CCS Central,³ notified the Appellant that it denied her application. On January 23, 2018, CCS Central received the Appellant's Request for Hearing to appeal the decision to deny her application. On February 12, 2019, the MSDE transmitted the Appellant's hearing request to the Office of Administrative Hearings (OAH) to hold a hearing.

On March 6, 2019, I held a hearing at the [REDACTED]

[REDACTED] located in [REDACTED] Maryland. Code of Maryland Regulations (COMAR)

¹ The application was a redetermination application. I will use application or redetermination application to refer to it.

² "Voucher" means a certificate given to a customer for use in purchasing child care from a provider. COMAR 13A.14.06.01B(61).

³ CCS Central is the approved contractor designated by MSDE to take CCS program applications, issue vouchers, and handle all aspects of case management including hearings and appeals, consumer education, and overpayments. See COMAR 13A.14.06.02B(17).

13A.14.06.15. The MSDE was represented by [REDACTED] CCS Appeals Representative. The Appellant represented herself.

The contested case provisions of the Administrative Procedure Act, the MSDE regulations governing CCS hearings and appeals, and the OAH's Rules of Procedure govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2018); COMAR 13A.14.06.15; and COMAR 28.02.01.

ISSUE

Did the MSDE properly deny the Appellant's CCS application received on December 3, 2018?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted into evidence as MSDE Ex. 1, the following pre-numbered documents on behalf of the MSDE:

- Notice of Hearing, dated February 13, 2019 (p. 1)
- Summary for Appeal Hearing, undated (pp. 2-4)
- Application/Redetermination for Child Care, undated, with several attached documents, various dates (pp. 5-22)
- Email cover sheet and unsigned Employment Verification Statement from the Appellant to CCS Central, dated December 11, 2018 (pp. 23-24)
- Email cover sheet and signed Employment Verification Statement from the Appellant to the MSDE, dated December 11, 2018 (pp. 25-26)
- Duplicate Application/Redetermination for Child Care, undated, with several attached documents, various dates (pp. 27-46)
- CCS Central letter to Appellant denying her application, dated December 31, 2018 (pp. 47-48)
- Request for Hearing, dated January 23, 2019 (p. 49)

The Appellant did not offer any documents into evidence.

Testimony

Ms. [REDACTED] testified for the MSDE.

The Appellant testified on her own behalf.

FINDINGS OF FACT

I find the following facts by a preponderance of the evidence:

1. On December 3, 2018, CCS Central received the Appellant's completed and signed application for CCS program benefits. CCS Central required the application to redetermine the Appellant's eligibility for program benefits.
2. With the application, the Appellant submitted a letter from [REDACTED]⁴ verifying that the Appellant was employed for fifteen hours per week with a salary of \$425.00 every two weeks. The letter was dated August 28, 2018.
3. The Appellant discontinued employment with [REDACTED] on November 30, 2018.
4. The Appellant called to inquire as to the disposition of her application on December 10, 2018. The CCS Central informed the Appellant it needed verification⁵ of her employment.
5. The Appellant completed the verification and returned it on December 11, 2018. The verification indicated her last day of employment was November 30, 2018.
6. The Appellant called CCS Central on December 14, 2018, to confirm its receipt of her employment verification. CCS Central verified that it received the document.
7. The Appellant called CCS Central on December 21, 2018, to check the status of her application, and CCS Central told her it was pending.
8. On December 26, 2018, the Appellant started a new job.
9. On December 31, 2018, CCS Central called [REDACTED] and was unable to reach her. CCS Central mailed a denial letter to the Appellant, and indicated the application was denied because "Documentation Not Returned."
10. On January 7, 2019, the Appellant called CCS Central and asked why her application was denied. CCS Central told the Appellant her case would be reviewed.

⁴ The employer's name is abbreviated to protect privacy.

⁵ No reason for why CCS Central needed verification was provided during the hearing or in the exhibit.

11. On January 22, 2019 CCS Central told the Appellant her case did not change after review.

DISCUSSION

The CCS program provides financial assistance with child care costs to eligible families. COMAR 13A.14.06.01. Financial assistance is provided through vouchers, which the MSDE gives to approved applicants to purchase child care from an approved provider. COMAR 13A.14.06.02B (61). To be eligible for the CCS program an applicant must meet certain technical, income, and need requirements. *See* COMAR 13A.14.06.03.

The need requirement is met when the child's parent, caretaker, or legal guardian is not available or capable to care for the child, no other acceptable child care plan can be arranged, and one or more of the priority situations exist according to regulation .08A. COMAR 13A.14.06.03E(1).

Pursuant to regulation .08A, provision of CCS program services to a family shall be made according to established service priorities, which include:

Priority 1, the highest service priority, which includes individuals who are receiving TCA and are:

- (a) Job searching;
- (b) Participating in a job readiness activity that has been verified by FIA; or
- (c) Participating in an approved activity for at least 20 hours per week.

COMAR 13A.14.06.08A(1).⁶

An "approved activity" means a pursuit in which a customer is participating that is approved by the CCS program for a TCA family, or by an individual who is:

- (a) Enrolled in public school;

⁶ This regulation contains an exception to the relevant service priority category, and provides that primary consideration within a service priority shall be given to a family requiring CCS Program services for a child with a disability or evidence of homelessness.

- (b) Enrolled in training;
- (c) Engaged in volunteer work;
- (d) Participating in a job search activity;
- (e) Working; or
- (f) Performing community service.

COMAR 13A.14.06.02B(7).

In order to be approved to receive CCS program services, a customer shall submit a complete application to the contractor, which shall consist of:

- (1) A completed, signed, and dated CCS program services application form approved by the Division;
- (2) Verification of employment earnings;
- (3) If applicable, verification of training or school attendance with days and hours of the activity; and
- (4) If applicable, verification of child support payments or an application to agree to pursue child support.

COMAR 13A.14.06.05B.

The contractor shall decide to accept or deny the application within thirty calendar days from the date of receipt of the signed application, if all verifications are received by the 25th day following application. COMAR 13A.14.06.05C. The customer is eligible from the date a signed application is received if the contractor determines that the customer is eligible for services.

COMAR 13A.14.06.05D. The contractor shall deny the application if the customer fails to meet all applicable eligibility requirements set forth at COMAR 13A.14.06.03; or fails to provide the required documentation within thirty days of initiating an application. COMAR

13A.14.06.05F(1), (3).

The burden of proof in this contested case hearing is by a preponderance of the evidence. Md. Code Ann., State Gov't § 10-217 (2014). In general, this means that the party asserting a fact must show that the fact is more likely true than not. Because this is a redetermination application denial, the burden of proof rests with the Appellant.

When the Appellant filed her hearing request, she explained that she gave CCS all of the information pertaining to her application. In addition, the Appellant stated that when she called on December 21, 2018, to verify that her application was in order, she was told everything was fine, but was later informed that she was denied for failure to provide her activity schedule.

Ms. [REDACTED] testified that the Appellant provided information that her employment ended on November 30, 2018. Her application was filed on December 3, 2018. As activity information on the application, the Appellant indicated she was employed Monday through Friday from 3:00 p.m. to 6:00 p.m. When CCS Central requested that the Appellant verify the activity information, it received the Appellant's Employment Verification Form indicating that the Appellant was no longer employed. The Employment Verification Statement provided no other activity, so CCS Central denied her application.

The Appellant testified that she provided what she was asked to provide. She stated that this was not her first redetermination application, and she knew what she needed to provide for eligibility. The Appellant acknowledged that when she provided the Employment Verification Form, she was not employed and not in school, or participating in any other activity. The Appellant acknowledged that in section six of the redetermination application, she was informed that for all employment activities, she must attach a letter verifying work hours. CCS Central requested verification of the Appellant's employment via the Employment Verification Statement.

After considering the testimony and reviewing the documentary evidence, I conclude that CCS Central properly denied the Appellant's application. The applicable law provides that CCS Central shall deny the application if the Appellant failed to provide required documentation within thirty days of initiating an application. COMAR 13A.14.06.05F(3). In this case, the Appellant originally submitted her application on December 3, 2018 seeking child care assistance for one child. The application requested activity information and the Appellant listed employment that she no longer had. The Appellant subsequently submitted the Employment Verification Statement that provided her last day of employment, November 30, 2018. CCS Central Called the employer, [REDACTED] on December 31, 2018, received no answer, and mailed the Appellant a denial letter.⁷ That the Appellant made the calls to CCS Central to verify that she sent them what was required does not change the fact that she had no activity to report. The Appellant did not start a new job until December 26, 2018, and did not, according to the evidence presented to me, report that job when she called CCS Central on January 7, 2019 and January 22, 2019. In order to receive benefits, the Appellant was required to be in and provide proof of, an activity. By all accounts, she was not in an activity, and providing proof of an activity she was no longer in does not comport with the regulations. As a result, I find that CCS Central correctly denied the Appellant's application for CCS program benefits.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion I conclude as a matter of law, that CCS Central on behalf of the Maryland State Department of Education properly denied the Appellant's December 3, 2018 application for CCS benefits, because the Appellant did not timely provide proof an activity. COMAR 13A.14.06.05F(3).

⁷ It is curious that CCS Central telephoned [REDACTED] when, by all indications, the Appellant did not work there.

ORDER

I HEREBY ORDER that the denial of the Appellant's application for Child Care Subsidy benefits received on December 31, 2018 is **AFFIRMED**.

April 19, 2019
Date Decision Issued

Signature Appears on
Original

William F. Burnham
Administrative Law Judge

WFB/sw
#179380

REVIEW RIGHTS

This is the final decision of the Maryland State Department of Education. A party aggrieved by this final decision may, within thirty days of the date of this decision, file a petition for judicial review with the Circuit Court for Baltimore City, if any party resides in Baltimore City or has a principal place of business there, or with the circuit court for the county in which any party resides or has a principal place of business. Md. Code Ann., State Gov't § 10-222(c) (Supp. 2018); Md. Rules 7-201 through 7-210. A separate petition may be filed with the court to waive filing fees and costs on the ground of indigence. Md. Rule 1-325. The Office of Administrative Hearings is not a party to any review process.

Copies Mailed To:

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]