

[REDACTED]

APPELLANT

v.

[REDACTED]

[REDACTED]

* BEFORE RICHARD O'CONNOR,
* ADMINISTRATIVE LAW JUDGE,
* THE MARYLAND OFFICE
* OF ADMINISTRATIVE HEARINGS

*

* OAH No.: DHS-[REDACTED]-05-19-28396

* * * * *

DECISION

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STATEMENT OF THE CASE

On July 26, 2019, the Appellant applied for Temporary Cash Assistance (TCA) benefits. Md. Code Ann., Hum. Servs. § 5-312 (2019). On August 26, 2019, the [REDACTED] (local department) denied the application because the Appellant had not appeared for a required face-to-face interview. On August 27, 2019, the Appellant requested a hearing.

On October 1, 2019, I held a hearing at the local department's office at [REDACTED] [REDACTED] Maryland. Code of Maryland Regulations (COMAR) 07.01.04.21B. [REDACTED] Appeals Specialist, represented the local department. The Appellant participated without representation.

The contested case provisions of the Administrative Procedure Act, the procedural regulations of the Department of Human Services (DHS), and the Rules of Procedure of the

Office of Administrative Hearings govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2019); COMAR 07.01.04; and COMAR 28.02.01.

ISSUE

Did the local department properly deny the Appellant's application for TCA benefits?

SUMMARY OF THE EVIDENCE

Exhibit

I admitted into evidence the following exhibit offered by the local department:

- LD Ex. 1. Summary for Appeal Hearing, September 27, 2019, with the following attachments:
- A. Case narrative notes, July 10 to September 20, 2019;
 - B. Correspondence from the local department to the Appellant, July 30, 2019;
 - C. Notice of Denial, August 26, 2019;
 - D. Assistance Status screen, September 20, 2019;
 - E. Application, July 26, 2019; and
 - F. Request for Fair Hearing, August 27, 2019.

The Appellant did not offer any exhibits.

Testimony

Ms. [REDACTED] and the Appellant testified.

FINDINGS OF FACT

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

1. The Appellant applied online for TCA benefits on July 26, 2019.
2. On July 30, 2019, the local department sent the Appellant written notice that she was scheduled for an in-person appointment for an interview at the local department on [REDACTED] 2019, at [REDACTED] p.m.
3. The Appellant received the notice and was aware of the appointment.

4. The Appellant did not come to the appointment because she had another appointment elsewhere.

5. The Appellant did not call the case manager, whose name and telephone number are on the notice scheduling the appointment, either before or after the scheduled interview to say she could not keep the appointment or to reschedule the appointment.

6. On August 26, 2019, the local department denied the Appellant's application because she had not completed an interview.

DISCUSSION

The DHS's Family Investment Programs provide assistance to individuals and families with children while preparing program participants for independence. COMAR 07.03.03.01A. TCA is a component of the Family Investment Programs, which operate under the Family Investment Administration. To be eligible for TCA benefits, an assistance unit¹ must meet certain financial and other eligibility requirements. COMAR 07.03.03.11.

The standard of proof in this case is by a preponderance of the evidence.² To prove something by a "preponderance of the evidence" means "to prove that something is more likely so than not so" when all of the evidence is considered.³ An applicant bears the burden of proof to show entitlement to TCA benefits when the local department denies an application for TCA.⁴ Because the local department denied the Appellant's application, she must prove that it is more likely than not that she is entitled to TCA benefits.

The Appellant faults the local department for not communicating with her before denying her application after she missed the [REDACTED] 2019 appointment. She is receiving TCA benefits

¹ An "assistance unit" is a "group of eligible individuals living together for whom cash assistance has been authorized." COMAR 07.03.03.02B(8).

² Md. Code Ann., State Gov't § 10-217 (2014); COMAR 07.01.04.12C(2).

³ *Coleman v. Anne Arundel Cty. Police Dep't*, 369 Md. 108, 125 n.16 (2002) (quoting *Maryland Pattern Jury Instructions* 1:7 (3d ed. 2000)); see also *Mathis v. Hargrove*, 166 Md. App. 286, 310 n.5 (2005).

⁴ COMAR 07.01.04.03A; COMAR 07.01.04.12B(1).

now as a result of a subsequent application but feels that she is entitled to retroactive benefits to July 26, 2019, when she originally applied.

TCA regulations do not specifically mandate that the local department interview an applicant, but COMAR 07.03.03.04C requires an assessment of the applicant's needs and an offer of services based on those needs. In its TCA Manual,⁵ the DHS has established a policy that every applicant for TCA must be interviewed, either in person or by telephone, as part of the application process. TCA Manual §§ 201.2L, 202.1.

There are also practical reasons to have an applicant come to the local department for an interview because typically an applicant, to gain eligibility, must obtain clearances on issues such as substance abuse, child support, and work programs. During a telephone or face-to-face interview, the local department must inform an applicant of her responsibilities. The TCA Manual states:

All applicants who are not exempt need to begin moving toward independence during the application process by: 1. Filing for and complying with Child Support Enforcement Services (CSES) requirements 2. Searching for a job 3. Applying for other benefits to which they may be entitled 4. Participating in a countable work activity.

Id. § 201.3D; *see also* COMAR 07.03.03.10 (child support cooperation) and COMAR 07.03.03.07-1 (work rules requirement). The local department must document compliance with each of these steps. The Appellant did not complete any of the required steps because she did not participate in an interview.

The Appellant testified that she knew about the appointment on [REDACTED] 2019, but did not go to it. She said that her child fell ill but did not say when or indicate that the child's illness caused her to miss the appointment. According to the Appellant's testimony, her primary reason

⁵ The TCA Manual may be accessed through the following link: <http://dhr.maryland.gov/business-center/documents/manuals/>.

for not attending the appointment was that she had another appointment somewhere else at that time. Apparently, she expected the local department to reschedule the appointment or contact her to inquire about her availability.

According to COMAR 07.03.03.05A, the local department is required to make a decision on a TCA application within thirty days. The thirtieth day after the application was August 25, 2019, which was a Sunday, so the local department denied the application on Monday, August 26, 2019. At that time, the local department knew only that the Appellant had not appeared for the interview and had not contacted the agency to provide an explanation or reschedule. In those circumstances, no regulation or policy requires the local department to reach out to an applicant who simply does not show up for a scheduled appointment. The local department had no choice but to deny the application because the Appellant had not completed the application process.

CONCLUSION OF LAW

Based upon the above Findings of Fact and Discussion, I conclude as a matter of law that the [REDACTED] properly denied the Appellant's July 26, 2019 application for TCA benefits. COMAR 07.03.03.04; COMAR 07.03.03.05A; TCA Manual §§ 201.2L, 201.3D, 202.1.

ORDER

I **ORDER** that the decision of the [REDACTED] to deny the Appellant's July 26, 2019 application for Temporary Cash Assistance benefits be, and is hereby, **AFFIRMED**.

November 15, 2019
Date Decision Issued

Signature Appears on Original
[REDACTED]

Richard O'Connor
Administrative Law Judge

ROC/kdp
#182930

REVIEW RIGHTS

A party aggrieved by this final decision may file a written 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. The petition must be filed within thirty (30) days of the date of this decision. Md. Code Ann., State Gov't § 10-222(c) (Supp. 2019); 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] (Emailed)

Michael B. [unclear]