

[REDACTED]

APPELLANT

v.

MARYLAND STATE DEPARTMENT

OF EDUCATION

* BEFORE MICHELLE W. COLE,
* AN ADMINISTRATIVE LAW JUDGE
* OF THE MARYLAND OFFICE OF
* ADMINISTRATIVE HEARINGS
* OAH No.: MSDE-[REDACTED]-21-21-08505

* * * * *

DECISION

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STATEMENT OF THE CASE

On March 12, 2021, [REDACTED] (Appellant) applied for Child Care Subsidy¹ (CCS) benefits. On April 9, 2021, the Maryland State Department of Education (MSDE or Department) Child Care Subsidy Central notified the Appellant that it had denied the application. Code of Maryland Regulations (COMAR) 13A.14.06.05F-G. On April 15, 2021, the Appellant requested a hearing to appeal the denial, COMAR 13A.14.06.15A, and on the same date that request was filed with the Office of Administrative Hearings (OAH).

I held a remote hearing on May 18, 2021, at the OAH in Hunt Valley, Maryland, via the Google Meet videoconferencing platform. COMAR 28.02.01.20B. [REDACTED] CCS Representative, represented the Department. The Appellant represented herself.

¹As of February 19, 2020, the Child Care Subsidy program changed its name to the Child Care Scholarship program. This change is indicated on the MSDE website and some of the documents presented as exhibits in the case. However, because the applicable regulations do not yet reflect this change, all references to the program will be to the Child Care Subsidy program.

The contested case provisions of the Administrative Procedure Act, the regulation governing CCS hearings and appeals, and the OAH Rules of Procedure govern procedure in this case. Md. Code Ann., State Gov't §§ 10-201 through 10-226 (2014 & Supp. 2020); COMAR 13A.14.06.15; COMAR 28.02.01.

ISSUE

Did the MSDE improperly deny the Appellant's CCS application?

SUMMARY OF THE EVIDENCE

Exhibits

I admitted the following exhibit into evidence on the MSDE's behalf:

LD Ex. 1 Summary for Appeal Hearing for May 18, 2021, with the following attachments:

- Application, signed March 1, 2021
- Child #1 Birth Certificate, [REDACTED] 2013
- Child #2 Birth Certificate, [REDACTED] 2015
- Employment Verification Letter for [REDACTED] March 5, 2021
- Employment Verification Letter for Appellant, February 4, 2021
- Appellant Earnings Statement, August 1, 2021
- Appellant Earnings Statement, January 15, 2021
- Appellant Earnings Statement, February 5, 2021
- [REDACTED] Earnings Statement, February 5, 2021
- [REDACTED] Earnings Statement, January 22, 2021
- CCS Application Denial, April 9, 2021

I admitted the following exhibits into evidence on the Appellant's behalf:

App. Ex. 1 [REDACTED] notes regarding telephone messages, May 18, 2021

App. Ex. 2 [REDACTED] Employment Verification Letters, May 6, 2021 and March 5, 2021

Testimony

Ms. [REDACTED] testified on behalf of the MSDE.

The Appellant testified on her own behalf.

FINDINGS OF FACT

Based upon the evidence presented, I find the following facts by a preponderance of the evidence:

1. On March 12, 2021, the Appellant filed an application for CCS benefits. She attached supporting documentation to the application, including birth certificates for her two children, employment verification letters from [REDACTED] for herself and [REDACTED] and earnings statements for herself and [REDACTED]

2. The February 4, 2021 and March 5, 2021 employment verification letters include information that the Appellant and Mr. [REDACTED] are “employed at [REDACTED] in the position of [REDACTED] [Appellant] . . . [REDACTED] [Mr. [REDACTED]]. This position is full-time, salaried, where the employee works 40 hours per week.” (LD Ex. 1).

3. For previous applications for CCS benefits, the Appellant submitted the same verification documents as were submitted to the MSDE on March 12, 2021. Those applications were approved.

4. On April 9, 2021, [REDACTED] on behalf of the MSDE, attempted to contact the human resources manager at [REDACTED] to verify the Appellant’s work hours.

5. On April 9, 2021, Child Care Subsidy Central sent a letter to the Appellant informing her that her application was denied because “Documentation Not Returned.” (LD Ex. 1).

6. On April 20, 2021, Ms. [REDACTED] left messages for the human resources manager at [REDACTED] asking for verification of the Appellant’s work hours.

7. On April 20, 2021, the [REDACTED] human resources manager contacted the MSDE and left a message for Ms. [REDACTED] who was unavailable.

8. On May 5, 2021, Ms. [REDACTED] left a message for the human resources manager at [REDACTED] asking to verify employment information. She did not leave a contact telephone number.

9. On May 5, 2021, the [REDACTED] human resources manager attempted to contact Ms. [REDACTED] at the telephone number she previously used to contact the MSDE. This telephone number had been changed prior to May 5.

10. On May 6, 2021, the [REDACTED] human resources manager sent updated employment verification letters via email to the MSDE. The updated letters informed the MSDE that the Appellant and Mr. [REDACTED] were “full-time, salaried, where the employee works 40 hours per week.” (App. Ex. 2). The May 6, 2021 letter also identified the Appellant’s annual salary amount.

DISCUSSION

“The purpose of the Child Care Subsidy Program is to provide financial assistance with child care costs to families that meet applicable State or federal eligibility requirements.” COMAR 13A.14.06.01. The assistance is provided by means of vouchers that approved applicants use to purchase child care from an approved provider. COMAR 13A.14.06.02B(61).

To qualify for CCS benefits, an applicant² must meet certain requirements, including income and need requirements. COMAR 13A.14.06.03E-F. Applicants also must provide all documentation requested by the MSDE to verify the applicant’s and child’s eligibility within the required time period. COMAR 13A.14.06.05B-C. The MSDE must deny an application for CCS benefits if all the program’s requirements are not met. COMAR 13A.14.06.05F.

When not otherwise provided by statute or regulation, the standard of proof in a contested case hearing before the OAH is a preponderance of the evidence, and the burden of proof rests

² MSDE regulations define individuals who apply for or receive services through the CCS program as “customers.” COMAR 13A.14.06.02B(19).

on the party making an assertion or a claim. Md. Code Ann., State Gov't § 10-217 (2014); COMAR 28.02.01.21K. To prove an assertion or a claim by a preponderance of the evidence means to show that it is "more likely so than not so" when all the evidence is considered.

Coleman v. Anne Arundel Cty. Police Dep't, 369 Md. 108, 125 n.16 (2002).

In this case, the Appellant asserts that she is entitled to CCS benefits. The Appellant, therefore, bears the burden to show, by a preponderance of the evidence, that the MSDE improperly denied the Appellant's CCS application. COMAR 28.02.01.21K(1)-(2)(a). For the reasons that follow, I conclude that the Appellant has met her burden to establish that the MSDE improperly denied the Appellant's application for CCS benefits.

The Department maintains that the denial of the Appellant's application was appropriate because it was not able to verify the Appellant's work hours, which were not identified on the earnings statements submitted by the Appellant with her application. Ms. [REDACTED] testified on behalf of the Department and presented its exhibits. She agreed that the Appellant submitted wage verification documents with her application on March 12, 2021. However, she stated that the denial was based on the Appellant's failure to submit complete information, because the Appellant's earnings statements did not identify her work hours. She explained that work hours were not verified because the human resources manager at [REDACTED] was unavailable when Ms. [REDACTED] attempted to contact her, and the person with whom she spoke did not confirm the requested information.

The Appellant testified on her own behalf. She reported that she has experienced extreme hardship as a result of the MSDE's denial of her application, which she believes was in error. She explained that she followed the same procedure that she has followed with prior applications for CCS benefits. She stated that the employment verification letter that she submitted included the same information as before, when her applications were approved.

Further, she recounted her efforts to obtain the specific information sought by the MSDE and expressed frustration at the difficulty in being able to reach someone in the CCS office. She presented contact notes which established that the [REDACTED] human resources manager attempted to return the telephone calls to the MSDE on more than one occasion. She also presented updated employment verification letters that were emailed to the Department on May 6, 2021. All employment verification letters informed the MSDE that the Appellant and Mr. [REDACTED] were full-time salaried employees working forty hours per week. Further, when she was informed that additional documents were needed, the Appellant actively sought the requested information, which is reflected in the May 6, 2021 employment verification letter.

Ms. [REDACTED] argued that verification of work hours was required since the Appellant's earnings statements did not include this information. I am not persuaded by the Department's claim that the documentation presented by the Appellant with her application was incomplete or that the Appellant failed to return documentation. I find that the Appellant submitted all required information at the time she applied for CCS benefits. Indeed, the Appellant submitted earnings statements and employment verification letters. The employment verification letters dated February 4 and March 5, 2021 state that the Appellant and Mr. [REDACTED] are employed in positions that are "full-time, salaried, where the employee works 40 hours per week." (LD Ex. 1; App. Ex. 2). Accordingly, the Department's denial of the Appellant's application for failing to return documentation was improper.

Finally, the Department argued at the hearing that it needed additional confirmations from the Appellant's employer. The Appellant presented that "additional confirmation" evidence at the hearing and proved that her employer emailed this evidence to the Department on May 6th. The Department, despite receiving it, did not include this "additional confirmation" in its evidence. Thus, I find that the MSDE failed to fully evaluate the information that the Appellant

submitted in support of her application. As such, I will remand the case so that the Department may make a full eligibility determination based on the Appellant's March 12, 2021 application and supporting verification documents.

CONCLUSION OF LAW

Based on the foregoing Findings of Fact and Discussion, I conclude as a matter of law that the MSDE improperly denied the Appellant's application for CCS benefits. COMAR 13A.14.06.05B, F.

ORDER

I **ORDER** that the Maryland State Department of Education's denial of the Appellant's application for Child Care Subsidy benefits is hereby **REVERSED**; and I further

ORDER that this case be **REMANDED** to the Maryland State Department of Education to determine if the Appellant is otherwise eligible for Child Care Subsidy benefits based on her March 12, 2021 application and other supporting documentation discussed in this decision. The Maryland State Department of Education shall inform the Office of Administrative Hearings of its compliance with this Order within ten days.

July 7, 2021
Date Decision Mailed

Signature Appears on Original

Michelle W. Cole
Administrative Law Judge

MWC/da
#193085

REVIEW RIGHTS

This is the final decision of the Maryland State Department of Education. A party aggrieved by this decision may, within thirty (30) 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. 2020); 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]