

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-45417
Issue No.: 6015
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 3, 2010. The claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's CDC case due to Claimant's failure to return the redetermination packet?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The claimant received a redetermination packet and did not return it by the due date because he was told by the specialist assigned to his case that she was not his worker and to ignore it. The case worker was newly assigned to the Claimant's case. Exhibit 1
2. The Claimant did not return the redetermination based on this discussion with his new worker and the Claimant's Child day Care benefit case closed on October 11, 2009. Exhibit 2
3. At the hearing, the Department acknowledged that there could have been a misunderstanding and that the Claimant may have understood the statement to mean that he could ignore the redetermination packet.

4. The Department representative could not recall if the Claimant was advised to call his other (former) worker.
5. The Claimant did not receive the Notice of Case Action which closed his case until approximately one week after the case closed and only learned there was a problem when his day care provider called him to advise the Claimant that she was not getting paid by the Department for the Child Care she was providing. Exhibit 2
6. The Claimant requested a hearing on October 23, 2009 and attached his completed redetermination forms to the hearing request with a note indicating he was told not to return the forms by the assigned specialist. Exhibit 3.
7. The Claimant reapplied for CDC benefits on December 6, 2009 and was approved for CDC on December 16, 2009.
8. During the period his CDC case was closed, the Claimant paid his provider directly with cash through money orders from October 11, 2009 through December 25, 2009. The Claimant testified that he paid his CDC provider \$300 to \$325 per week during the period.
9. The claimant continued to pay his provider so he could continue to remain employed.
10. The Claimant ceased being eligible in late December 2009 when he was no longer working.
11. The Claimant is currently receiving CDC benefits as he is currently attending the WorkFirst program.
12. On November 10, 2009, the Department received the Claimant's Request for Hearing protesting the closure of the CDC case benefits.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative

Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In this case, the Department sent the Claimant a redetermination packet which he received. However, the Claimant was misled by a miscommunication to him by his new case worker who clearly advised him to ignore the redetermination packet. The Claimant complied and his CDC case closed for failure to return the packet.

When as here, the Claimant was reasonably misled by a new worker and where there was no evidence that the Claimant refused to cooperate, the case should not have been closed and to do so under this facts was an error. Further supporting this conclusion is the fact that the Claimant provided all of the requested information with his request for a hearing, complete with all the requested information and self employment income statements.

Under these facts and circumstances the Claimant did not refuse to cooperate in returning the redetermination packet and would not have failed to return the packet had he not understood that he had been told to not return it and ignore it. Because the Claimant was reasonably misled and would have returned the packet had the conversation with his new worker not ensued, the Claimant's case would not have been closed. Although not intentionally misled by the Department, the Claimant reasonably relied to his detriment and suffered dire consequences. The undersigned finds that Claimant did not refuse to provide requested information. Furthermore, it was not Claimant's fault that he did not return the packet.

Accordingly, it is found that the Department's closure of the Claimant's CDC case on October 11, 2009 was in error and the Department's decision to close the CDC case is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's closure of the Claimant's CDC case is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall reopen the Claimant's CDC case retroactive to the date of closure, October 11, 2009 and shall reprocess the Claimant's redetermination packet.
2. If the redetermination packet attached to and received by the Department with the Claimant's hearing request is complete and sufficient the Department shall utilize the information already provided by the Claimant in completing the redetermination. If additional information is required to be completed by the Claimant, the information shall be requested of the Claimant by request for verification in writing and the Claimant shall also be entitled to an extension of time to respond if one is required so the Claimant can respond in a timely manner given the passage of time since the CDC case closure.
3. Claimant's CDC case shall be reinstated as of October 11, 2009 and the Department shall supplement the Claimant for any lost benefits (if any) he or his CDC provider was otherwise entitled to receive.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/6/2010

Date Mailed: 12/6/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or

201045417/LMF

reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/jlg

cc:

[REDACTED]