

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg No: 201017210  
Issue No: 6019, 6027  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
June 16, 2010  
Wayne County DHS

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 hearing. After due notice, a telephone hearing was conducted by the undersigned in Detroit, Michigan on June 16, 2010. The Claimant was present and testified. Terry Bailey, FIM and Iesha Brassell, Assistant Payment Worker appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Child Development and Care (CDC) case ?

FINDINGS OF FACT

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

1. The Claimant was a recipient of Child Day Care benefits and decided to change her provider to a different family member.

2. The Claimant applied for a change in her Child Development and Care (CDC) provider and filed a new application on January 27, 2010. The new provider was a family member and verifications, including the provider identification and social security number, were provided with the application. The Claimant was eligible for CDC benefits at the time and has remained eligible for CDC throughout.
3. The new provider application, as submitted, was complete and was required to be processed.
4. The Department did not process the application. The Department said it did not process the application because it did not have all the information and it did not know whether it should process the application because the Claimant also submitted an application for a day care facility provider at the same time.
5. The Department did attempt to reach the Claimant by telephone but did not send any written communication to the Claimant relative to her applications or a written request for verification.
6. The Claimant received one phone call from the Department which she returned leaving a message, as her worker was not available, and only learned her application would be denied when she inquired about the status of her request in April 2010. She was told her provider would not be paid and the application had not been processed.
7. The Claimant applied for CDC and for a change in her provider again at the end of May 2010 because the original forms could no longer be processed, new forms were required. The Claimant had to resubmit identification and social security

information even though this information had been provided to the Department in January with the original paperwork.

8. During the hearing, the Department could not say why it did not process the case other than there were two separate applications.
9. At the hearing, the Claimant indicated that she no longer needed to pursue issues regarding her FAP and Medical Assistance as she was satisfied with regard to the Department's action in regards to those benefits.
10. The Claimant requested a hearing on January 12, 2010 protesting the Department's non action with regard to her CDC 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 Program Reference Manual (PRM).

In this matter, the Department did not process either the original request for change in child care provider or the application for a day care facility as a provider. The Department did not communicate with the claimant in writing, and the claimant returned the Department's call she received. The real problem was that the Claimant understood and was told it would take at least 45 days for the approval of the provider so did not know there was a problem as she did not expect to hear from the Department unless the provider was approved or not approved. To

further confuse matters, due to the inaction on the Claimant's original request, the policy changed as did the forms the Claimant and her provider were required to submit. Those forms were recently resubmitted in early June 2010 by the claimant. As of the date of the hearing, the new provider application had not, as of yet, been processed.

It seems that this matter could have been cleared up more simply by the Department so that some action would have been taken before the Claimant was required to fill out a new request for her provider.

The Department is required to register a provider and obtain clearances. If denied clearance, a provider can request administrative review to remove the closure reason. BEM 704 page 10, 11. In this matter, the Claimant's request for a hearing is with regard to the status of her application and lack of response to her inquiries and the failure of any action to be taken by the Department.

Based on the record presented by the Department at the hearing and its failure to process the application, it is found that the Department's Action must be reversed for the following reasons.

BEM 704 provides: within six working days of receiving the DHS 220 A/R the department is required to review the provider application to determine if the provider applicant has self reported a crime, complete all background clearances, and determine eligibility of the provider applicant a enroll the provider in Provider Management. BEM 704 page 4.

Clearly, the Department completed none of the required tasks and thus the Claimant should not be penalized for the Department's inaction. Had the Department taken the actions necessary to determine whether the applicant provider was approved, the Claimant's provider would have been paid beginning with the day that the care began. BEM 704 page 5. It was due to the Department's inaction that the provider applicant was not approved in a timely manner and

has not been paid for services to date. Given these circumstances it must be determined that the Department's inaction must be remedied and that the new application for day care provider services should be processed immediately and care provider services must be paid for as of the day the care began, if the provider is approved and completes the Tier 1 training Provider Management. BEM 704 page 10.

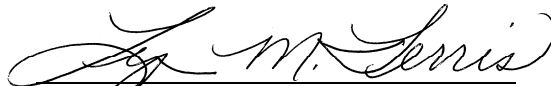
DECISION AND ORDER

The Administrative Law Judge, based upon the 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;

The Department shall process the Claimant's current request and application to change provider. If the provider is approved and undergoes the required training, the Department shall reinstate the Claimant's CDC application for change of provider retroactive to the date of the claimant's original request and application in January 27, 2010.

If the Department determines the provider is approved and undergoes the required training, the Department shall provide the CDC benefit provider payment retroactively from the date the provider began providing services.



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

Date Signed: 07/07/10

Date Mailed: 07/08/10

**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 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/dj

cc:

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