

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.: 201042071
Issue No.: 6019/6021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 27, 2010
Office: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 October 27, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUES

1. Whether Claimant timely requested a hearing on 3/30/10 for an 8/2008 termination of CDC benefits for her daughter [REDACTED]
2. Whether three unissued CDC payments should be issued to Claimant's CDC provider.
3. Whether DHS properly terminated Claimant's CDC benefits for [REDACTED] on 2/23/10, due to a failure by Claimant to update her CDC provider's address.

FINDINGS OF FACT

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

1. Claimant was an ongoing CDC recipient.
2. Claimant is a parent of two minor children, [REDACTED] and [REDACTED]
3. In 8/2008, for unspecified reasons, DHS terminated Claimant's CDC benefits for her child, [REDACTED] but continued to issue CDC benefits for Claimant's child, [REDACTED]

4. Due to unclear reasons, Claimant's CDC provider was not issued CDC payments of \$288 each for the CDC pay periods of 10/25/09-11/07/09, 11/08/09-11/21/09 and 11/22/09-12/05/09.
5. On 11/10/09, DHS mailed Claimant a Child Care Provider Verification (DHS-4025)
6. On 2/9/10, DHS mailed Claimant a Notice of Case Action terminating Claimant's CDC benefits due to a failure to verify information.
7. Claimant failed to return the DHS-220 and to provide a mailing address for her CDC provider.
8. Claimant stopped employment on 3/28/10.
9. Claimant requested a hearing on 3/30/10 and 9/1/10 disputing: the lack of CDC benefit eligibility for one of her children since 9/2008, three CDC checks that were not issued to her CDC provider and CDC benefit termination noticed on 2/9/10.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

BAM 600 contains the DHS policy for administrative hearings including the client deadline to file a hearing request. Clients have 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 at 4.

Claimant disputes a termination of CDC benefits concerning her daughter, Ajanae. Claimant states that DHS inexplicably terminated CDC billing for her daughter in 8/2008. Claimant requested a hearing concerning the termination on 3/30/10, approximately 19 months following the termination of CDC benefits. Claimant's failure to request a hearing sooner than 3/30/10 is fatal to her right to a hearing concerning the issue of CDC benefits for Ajanae. It is found that Claimant failed to timely request a hearing concerning the termination of CDC benefits for Ajanae.

Claimant also contends that her CDC provider is entitled to three unissued CDC payments from 2009. Based on documentation provided by DHS, the CDC payments for 10/25/09-11/07/09, 11/08/09-11/21/09 and 11/22/09-12/05/09 were "not processed". At the hearing, Claimant testified that she believed those payments were not issued due to a failure by DHS to issue her a personal identification number (PIN) which may have been required for Claimant to call and confirm the billing hours entered by her CDC provider. DHS was less sure of the reason for the non-issuance of the CDC payments but tended to support that Claimant's CDC provider was entitled to receive the unissued payments.

Following the hearing, DHS presented a Child Development and Care Provider Termination Client Notice dated 10/12/10 which advised Claimant that her CDC provider was not eligible for CDC payments effective 10/12/09. The three unissued CDC payments, not coincidentally, are for pay periods beginning immediately after the CDC pay period of the CDC provider termination. Thus, the three CDC payments were not issued because of a problem with Claimant's provider's CDC eligibility, not because of a problem Claimant had with obtaining a PIN. If the basis for non-issuance of the three CDC payments was Claimant's lack of PIN, Claimant would be entitled to have the CDC payments issued.

It is critical that provider address changes be made promptly to avoid unnecessary closures and disruptions in child care services. BEM 704 at 14. Aides or relative providers are not eligible for care to be authorized for any period that enrollment was ended as a result of a failure to meet a self-certified requirement that is listed on the DHS-220. *Id.* Undeliverable mail is an example for a basis of closure. When it is believed that the aide/relative no longer meets the requirements to be enrolled, DHS should attempt face-to-face contact with the aide/relative for the purpose of investigation unless there is no question that the aide/relative fails to meet the requirements to be enrolled. *Id.*

Very little testimony and evidence was presented regarding the specifics of Claimant's provider's address. DHS testified that they spoke with a DHS employee named [REDACTED] who is responsible for CDC provider clearances. Linda advised Claimant's specialist that Claimant's provider was terminated due to undeliverable mail sent to the provider's last reported address. No evidence was submitted regarding any attempts DHS made for a face-face contact with the CDC provider to obtain the provider's proper address. A simple phone call to the provider may have resolved the address issue. It is plausible that the CDC provider only had a temporary issue with the mail. Neither Claimant nor DHS were very helpful in clarifying the issue.

Documentation indicated that Claimant's provider was an aide that performed supervision of Claimant's child at Claimant's home, not her own. The undersigned

believes that the provider's address is more of an issue when it is also the address for where the dependent care occurs.

The evidence also seemed to support that the CDC provider might have updated her mailing address and became eligible for CDC payments because Claimant and DHS only referred to three unmade payments during a time Claimant was eligible for CDC benefits. If Claimant's CDC provider did not update her mailing address, then DHS and/or Claimant should have mentioned additional unpaid CDC payments or mentioned a change in CDC providers; no such testimony was provided.

The most helpful evidence to explain why three CDC payments were not issued would have been testimony from Linda, the DHS representative who was responsible for terminating Client's CDC provider's eligibility. During the hearing, the undersigned unsuccessfully attempted to contact Linda for her testimony.

Based on the limited evidence presented, the undersigned is inclined to find that Claimant's CDC provider is entitled to issuance of the three unissued CDC payments and that DHS failed to establish that Claimant's CDC provider was properly terminated from eligibility.

For CDC verifications, the client is allowed a full 10 calendar days from the date verification is requested. BEM 702 at 1. Eligibility for CDC services exists when DHS has established the client is using an eligible provider. BEM 703 at 1.

Though it is somewhat contradictory to the previous finding, the undersigned is inclined to find that DHS properly terminated Claimant's CDC benefits on 2/23/10. The basis for the termination was Claimant's CDC provider's eligibility based on an unverified mailing address.

The reason the undersigned feels justified in this finding is that though DHS did not fully establish that there was a basis to terminate Claimant's CDC provider, Claimant failed to establish why she did not cooperate in updating her provider's address or finding a new CDC provider. DHS requested a DHS-220 on 11/10/09 which Claimant failed to return. This step was not a part of the process in denying Claimant's provider's eligibility, but was a necessary step for Claimant to maintain CDC benefit eligibility. It is found that DHS properly terminated Claimant's CDC benefits based on Claimant's failure to verify information.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely request a hearing concerning CDC benefit

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termination effective 8/2008 concerning dependent care for her daughter, [REDACTED] Claimant's hearing request is hereby partially DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's CDC benefits effective 2/23/10 on the basis that Claimant failed to verify necessary information. The actions taken by DHS are partially AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to establish that Claimant's CDC provider's eligibility was properly terminated on the basis of failing to verify the provider's mailing address. It is ordered that DHS issue the already billed CDC payments from 10/25/09-11/07/09, 11/08/09-11/21/09 and 11/22/09-12/05/09 to Claimant's CDC provider. The actions taken by DHS are partially REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/8/2010

Date Mailed: 12/8/2010

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 reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CG/hw

cc:

[REDACTED]