

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: 20105833

Issue No: 6021

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 16, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 on 11/2/09. After due notice, a telephone hearing has conducted from Detroit, Michigan on December 16, 2009. The Claimant appeared and testified. Gloria Cummings, Case Manager and Olivette Gordon, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied Child Dependent Care ("CDC") benefits effective September, 2009?

FINDINGS OF FACT

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

1. Claimant is an active CDC recipient per Bridges.
2. Claimant has not received any CDC payments for her youngest daughter 9/13/09 through the present.

3. Claimant has not received any CDC payments for any of her children since 9/21/09.
4. The Department indicated that Claimant's youngest daughter was listed on the Bridges system twice.
5. The Department indicated that it really did not know why Claimant was not receiving any CDC benefits.
6. Claimant has not received any sort of notice indicating that her CDC benefits were terminated.
7. The Department indicated that Claimant's provider was billing over the allowable number of hours; however, Claimant has not received any sort of written notice indicating that she was overpaid for CDC benefits.
8. On November 2, 2009, the Department received the Claimant's Requests for Hearing protesting the termination of her CDC payments.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe,

affordable, accessible, quality child care for qualified Michigan families. BEM 703. The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a health/ social condition for which treatment is being received and care is provided by an eligible provider. BEM 703. The child care need calculation is based on a “best estimate” of the parent/substitute parent’s work or approved activity schedule. Staff are expected to work in a cooperative relationship with the client to establish this best estimate. The word of the client is accepted unless inconsistent with known facts. BEM 710. The maximum number of hours allowed for a recipient is 90 hours in a biweekly period. BEM 706, p. 2

There are two types of written notice: adequate and timely. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

BAM 220, pp. 1-2.

In this case, Claimant never received any notice as to why she was not receiving child care payments. The Department deduced many “possible” reasons why the system did not pay Claimant CDC benefits from 9/13/09 on, including verifications not being submitted and Claimant billing over the allotted number of hours. However, the Department was unable to conclusively state the reason for nonpayment. Claimant should not be penalized for a system

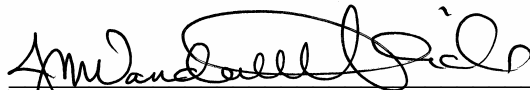
malfunction without appropriate notice and opportunity to correct the notice. This Administrative Law Judge finds that the Department did not properly notify Claimant of termination of CDC benefits. Accordingly, the Department's termination of CDC benefits is reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly stopped paying the Claimant CDC benefits as of 9/13/09.

Accordingly, it is ORDERED:

1. The Department's decision is REVERSED.
2. The Department is ordered to reopen and process Claimant's CDC case and payments for her youngest daughter from 9/13/09 and for her other two children from 9/20/09.
3. The Department is further ordered to delete any negative action and supplement the Claimant with any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/23/09

Date Mailed: 01/08/10

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.

JV/dj

cc:

