

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24973
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: April 25, 2011
DHS County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]' request for a hearing. After due notice, a telephone hearing was held on April 25, 2011. The hearing was conducted at the same time as another hearing request by Claimant, which has a separate Registration Number, No. 2011-26696. The Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's application for Child Development and Care (CDC) benefits?

FINDINGS OF FACT

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

1. On March 29, 2010, Claimant received a \$5,000 JET-ITA (Jobs, Education and Training-ITA acronym unknown) Grant Award for the [REDACTED], for the semester year March 29, 2010-March 28, 2011.
2. The JET-ITA Education Program is a DHS-approved program and Claimant was eligible for, and received, CDC benefits from DHS.
3. On or about January 11, 2011, Claimant ended her studies at [REDACTED] and became employed at [REDACTED].

4. On March 3, 2011, Claimant was terminated from her job at [REDACTED]
5. On March 8, 2011, DHS sent Claimant a Notice of Case Action stating that her CDC benefits were closed from January 30-February 12, 2011, a period of thirteen days. DHS' stated reason was, "Child(ren) is/are not eligible because the parent/substitute parent does not have a need for child day care services due to employment, education or family preservation reasons."
6. Claimant has not received CDC benefits since about March 8, 2011.
7. On March 16, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. 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. DHS provides CDC benefits to adults and children pursuant to MCL Section 400.14(1) and Michigan Administrative Code Rules 400.5001-5015. DHS' CDC policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals can be found online at www.michigan.gov/dhs-manuals.

The manuals are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

The Department has cited as authority for its actions BEM 703, "CDC Program Requirements." BEM 703 states that clients who are receiving CDC because they are involved in an approved activity will be reviewed and will end at specified times:

Client need must be reviewed and re-verified whenever the term, semester or program ends, whichever is earliest. The authorization end date must not exceed the term, semester or program end date.

...

CDC eligibility ends based on an approved activity need reason when:

- The client is no longer participating with the MWA [Michigan Works Agency] or other employment agency.

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- The activity is no longer approved.
- The Client no longer meets CDC eligibility requirements.
- The need no longer exists.

BEM 703, pp. 7-8.

In reaching my decision, I have reviewed all of the testimony and evidence in this case as a whole. I will first address the denial of CDC benefits from January 30-February 12, 2011, the thirteen-day period. At the Administrative Hearing, DHS presented no sufficient explanation as to why Claimant's January 30-February 12, 2011, CDC benefits were closed. If Claimant was working during this time, I see no reason why she should not have received CDC benefits. I note that the denial occurs about three weeks afterwards, on March 8, 2011, so I speculate that this denial may have something to do with Claimant's loss of work on March 3. However, I cannot see why a loss of employment on March 3 causes a denial of CDC benefits in January-February. Therefore, with regard to the January 30-February 12, 2011, CDC payment period, I must REVERSE DHS' denial of CDC benefits and rule that they shall be reevaluated and paid as appropriate.

Next, I will consider the March 2011, termination of ongoing CDC benefits from about March 8, 2011. While the DHS Bridges Eligibility Summary reflects that termination was not until March 27, 2011, Claimant testified that the termination occurred about March 8. I accept Claimant's testimony on this point as stronger and more reliable testimony, because DHS' testimony on this point was based on information from the Bridges computer system and was not based on personal knowledge. Also, the Eligibility Summary contains an error regarding the January 30-February 12 period, where it states that there is "No Change," when in fact Claimant's CDC benefits were terminated during that time. As there is at least one error noted in the Eligibility Summary, I am reluctant to rely on its accuracy as to other information it contains.

Although the termination of Claimant's CDC benefits occurred on or about March 8, 2011, I find nothing in the record to explain why this termination occurred. While it appears from the case history that it may be because of Claimant's loss of employment on March 3, it is still true that Claimant was still enrolled at [REDACTED] through March 28, 2011, and her CDC benefits should have continued through that time. Because DHS has failed to produce clear and convincing evidence to explain its action, I REVERSE the termination of Claimant's CDC benefits occurring about March 8, 2011, and reinstate this case. DHS shall review Claimant's work and approved education status and provide her with appropriate benefit supplements to restore her to the situation to which she is entitled.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' termination of Claimant's CDC benefits for the thirteen days of January 30-

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February 12, 2011, and I also REVERSE DHS' termination of Claimant's CDC benefits as of about March 8, 2010. DHS shall reinstate these benefits, review Claimant's eligibility at both times, and provide supplemental retroactive CDC benefits in accordance with DHS policies and procedures.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge REVERSES DHS' action in this case. IT IS HEREBY ORDERED that DHS shall reinstate Claimant's CDC benefits from January 30-February 12, 2011, and from March 8, 2011, and thereafter, DHS shall review Claimant's work and approved education status at these times, and DHS shall provide appropriate supplemental retroactive CDC benefits as appropriate, in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 4, 2011

Date Mailed: May 5, 2011

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.

JL/pf

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