

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No. 201132272  
Issue No. 6021  
Case No. [REDACTED]  
Hearing Date: July 6, 2011  
Wayne County DHS (49)

**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 July 6, 2011 from Detroit, Michigan. The Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED] Specialist, appeared and testified.

**ISSUE**

Whether Claimant timely requested a hearing concerning a denial of Child Development and Care (CDC) benefits.

**FINDINGS OF FACT**

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

1. On an unspecified date, Claimant applied for CDC benefits.
2. On 9/7/10, DHS mailed Claimant a Notice of Case Action (Exhibit 1) denying Claimant's application for CDC benefits on the basis that Claimant failed to verify information.
3. Claimant reapplied for CDC benefits on 4/8/11.
4. On 4/27/11, DHS approved Claimant's CDC benefits (see Exhibit 2) and her requested CDC provider for CDC benefit eligibility effective 3/27/11.

5. On 5/3/11, Claimant requested a hearing to dispute the failure by DHS to approve Claimant for CDC benefits from 9/2010.

### **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. DHS (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and M.A.C.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).

The undersigned will refer to the DHS regulations in effect as of 9/2010, the month of the DHS decision in which Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

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.

In the present case, Claimant disputed an alleged failure by DHS to approve her and/or her CDC provider for CDC benefits from 9/2010. DHS submitted a Notice of Case Action (NCA) (Exhibit 1) which verified that Claimant's CDC benefits for 9/2010 were denied on 9/7/10. The Notice of Case Action would have served as written notice to Claimant of the denial. The address on the NCA matched the mailing address Claimant provided at the administrative hearing though Claimant did not deny receiving the NCA.

Claimant did not request an administrative hearing until 5/3/11, slightly less than eight months from the date of the denial for 9/2010 CDC benefits. Claimant stated that she was unaware of her right to an administrative hearing and was attempting to resolve the issue at the DHS level during the eight month period between the denial and her hearing request. Claimant's explanation may be reasonable, but is not a valid excuse for failing to timely request a hearing. It is found that Claimant did not timely request a hearing to dispute a 9/2010 DHS action concerning CDC benefits.

Claimant's hearing request appeared to be in response to the 4/2011 approval for CDC benefits. Claimant's request was timely to dispute the 4/2011 action. Thus, it must be determined whether Claimant was entitled to 9/2010 CDC benefit eligibility based on Claimant's 4/8/11 application.

BAM 115 outlines the eligibility effective dates for DHS programs. For CDC benefits, the first day that care may be authorized is the latest of the following:

- the CDC application receipt date;
- the date the child care need begins;
- the date the provider becomes eligible for subsidy payments; or
- the date the unlicensed provider completes the basic training requirement. BAM 115 at 18.

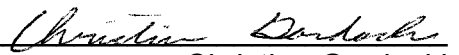
Not all of the above dates are known. It is known that Claimant reapplied for CDC benefits on 4/8/11. Based on the above policy, it is known that Claimant would not have been entitled to CDC benefits for any date prior to the application date. DHS approved Claimant and her CDC provider effective 3/27/11 (the beginning date of the pay period containing 4/8/11). It is found that DHS properly determined Claimant's eligibility for CDC benefits effective 3/27/11 based on Claimant's 4/8/11 application date.

Note that this decision does not address whether DHS properly or improperly denied Claimant's application from 8/2010 or 9/2010; again, that issue may not be decided due to the lack of timeliness in Claimant's hearing request. Based on the presented evidence, it does appear that DHS may have improperly denied the application. Though the undersigned lacks the authority to order DHS to correct an improper denial when the hearing request was not timely made, DHS is not prevented from correcting wrongly denied benefits on their own accord.

### **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 a 9/2010 denial of CDC benefits. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined the begin date as 3/27/11 for Claimant's CDC benefits based on the 4/8/11 application date. The actions taken by DHS are PARTIALLY AFFIRMED.

  
Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 12, 2011  
Date Mailed: July 12, 2011

2011-32272/CG

**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.

CG/cl

cc:

[REDACTED]