

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

IN THE MATTER OF:



Reg. No.: 201140473
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: August 18, 2011
County: Wayne County DHS (31)

ADMINISTRATIVE LAW JUDGE: Andrea J. Bradley

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 18, 2011, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of Department of Human Services (Department) included Suzette Cocklow, Eligibility Specialist.

ISSUE

Did the Department properly terminate the Claimant's child development and care provider certification?

FINDINGS OF FACT

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

1. Claimant applied for benefits received benefits for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On May 24, 2011, the Department sent the Claimant a notice stating that the Claimant's ongoing CDC provider's eligibility was revoked for payments because the provider does not meet requirements.
3. On May 24, 2011, the Department terminated the CDC provider's certification.
4. On May 24, 2011, the Department sent

<input checked="" type="checkbox"/> Claimant	<input type="checkbox"/> Claimant's Authorized Representative (AR)
notice of the	<input type="checkbox"/> denial. <input checked="" type="checkbox"/> termination. <input type="checkbox"/> closure.
5. On June 3, 2011, Claimant filed a hearing request, protesting the

<input type="checkbox"/> denial of the application.	<input checked="" type="checkbox"/> termination.	<input type="checkbox"/> closure of the case.
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CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

☒ The Child Development and Care (CDC) 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 provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, the Department testified that it terminated the CDC provider's certification based on information from central registry that the provider no longer meets requirements. The Department admitted that it had no first hand knowledge as to the reason that the provider no was considered to longer meet the requirements. The Claimant testified that her provider has been mistakenly terminated in the past and that an Administrative hearing was needed to rectify the issue. The Claimant contended that her provider's termination in the present case is the same issue confronted in the past. The Claimant submitted a decision by an Administrative Law Judge (ALJ) in support of her position. Exhibit 1.

The first issue to determine is whether the present case involves issues already decided by a previous administrative decision, because this ALJ lacks authority to determine a previously decided issue. If that were the case, the only remedy would be enforcement of the order issued by the prior ALJ. The previous ALJ ordered the Department to approve the CDC provider and process the provider payments for the dates of July 2009 through June 5, 2010. The ALJ made findings of fact that the CDC provider was initially denied as an eligible CDC provider based on a criminal background check; that the Department then approved the CDC provider to receive payments; and that after that approval, the Department had failed to process the approval so that the CDC provider could bill for payment. The key issue in that case was the Department's failure to process the CDC provider application and payments after the Department made a determination that the CDC provider was eligible. The present case involves the same CDC provider at issue in the previous ALJ's decision, but involves a different time frame for billing and involves the issue of the CDC provider being terminated based on eligibility.

Provider or applicants whose enrollment is denied or terminated as a result of a criminal conviction or pending crime may request an administrative review. BEM 704. Instructions on the DHS-759 direct providers to send all documentation to central office where the review is completed. BEM 704. Neither child care providers nor CDC recipients are entitled to Department administrative hearings based on provider/applicant termination or denial. BEM 704.

The issue in this case is whether the Department properly terminated Claimant's CDC provider for failure to meet requirements. Although the Claimant presented credible evidence that a mistake has been made by the Department in the past regarding this particular CDC provider's eligibility, there is no jurisdiction for the undersigned to determine the propriety of the eligibility decision. Any dispute regarding the termination

of the CDC provider based on eligibility must be resolved through the central office and not by way of an administrative hearing.

The Department received the notice of ineligibility and terminated the CDC provider at issue and requested information from the Claimant regarding a new eligible CDC provider. Based on the above facts, the Department acted in accordance with Department policy when it terminated the CDC provider and refused to allow processing of provider payments for that time period based on a determination by the central office that the CDC provider was ineligible.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department


properly denied Claimant's application improperly denied Claimant's application
 properly closed Claimant's case improperly closed Claimant's case

for: AMP FIP FAP MA SDA CDC.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record.


Andrea J. Bradley
 Administrative Law Judge
 for Maura Corrigan, Director
 Department of Human Services

Date Signed: 10/20/11

Date Mailed: 10/21/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

AJB/dj

cc:

