

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 20111039
Issue No: 6021
Case No: [REDACTED]
Hearing Date:
December 8, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing. After due notice, a telephone hearing was conducted by the undersigned in Detroit, Michigan on December 8, 2010. The Claimant was present and testified. Terry Bailey, FIM and Brenda Johnson FIS appeared on behalf of the Department. Carmen Williams of the Roth Michigan Works program also appeared as a witness for the Department and testified.

ISSUE

Whether the Department properly denied the Claimant's CDC provider's eligibility and whether the CDC provider is entitled to payment prior to completion of CDC orientation training.

FINDINGS OF FACT

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

1. The Claimant was an ongoing CDC recipient and applied for a change in CDC provider on June 17, 2010.

2. The DHS processed the provider change request on July 16, 2010.
3. The Claimant's provider completed Department mandated orientation training on August 14, 2010. Exhibit 1.
4. The Claimant's provider was approved by the Department on August 17, 2010, and then the Department terminated the provider approval on August 31, 2010.
5. The Department could not testify with specificity as to why the provider was terminated, giving as the reason, it could not because the decision was made in Lansing.
6. The Claimant was unaware that the provider's approval had been changed until September 9, 2010. Exhibit 3, Hearing Request.
7. The Claimant's day care case was closed sometime during the period, after November 7, 2010, because she was deferred from Work First pending resolution of the CDC provider status. As of the date of the hearing, that status was not resolved.
8. The Department provided, as an exhibit, an unaddressed notice dated September 1, 2010, indicating that the provider had not attended the orientation. The exhibit does not provide the name of the provider or the Claimant's name on the notice. Exhibit 2
9. The Claimant did not receive the unaddressed notice.
10. The Claimant was triaged October 5, 2010, for failure to provide attendance records. The outcome of the triage was to place the Claimant on Work First Deferral until the Claimant's day care situation was resolved.
11. When the day care provider attempted to submit a request for payment, he was unable to do so and was not authorized.
12. The Claimant's day care provider was never paid for his services.
13. The Claimant's day care provider advised the Claimant that he would no longer continue to provide day care because he was not getting paid and quit. The provider quit as of some time in September 2010.
14. The Department had no record of outstanding CDC payment requests.
15. The Claimant's provider is not entitled to retroactive payments for CDC payments prior to the time the Claimant's provider was approved after completion of orientation training on August 14, 2010.

16. The Claimant requested a hearing on September 9, 2010 protesting the failure of the Department to approve her provider for payment.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

As of March 7, 2010, Department Bridges Eligibility Policy mandated orientation training for all provider applicants who were either applying or reapplying to be a provider. BEM 704, BPB 2010 010. In this case, it was only when the Claimant's provider attended and completed the orientation training that the provider was entitled to payment for services. BEM 704, page 6.

BEM 704 is very clear with regard to when a provider can be paid and provides:

Providers are eligible for payment starting with the pay period that holds the training date. Payments for any care provided prior to the training date can not be authorized or paid.

In this matter, the Claimant's provider was approved August 17, 2010 by the Department after completion of provider orientation training on August 14, 2010. Exhibit 1.

Any child care services provided prior to August 17, 2010 cannot be authorized

or paid. The provider is not eligible to receive payment for any CDC services provided prior the pay period which contains the training date of August 14, 2010. The Department's determination denying payment to the provider for CDC services prior to that date is correct. BEM 704, id. Thereafter, other events may have impacted the provider's eligibility for payment. The first was the Department's unaddressed form letter dated September 1, 2010 which indicated that the claimant's provider had not completed the training.

The Claimant's provider was approved by the Department for a two week period, August 17 through August 31, 2010, after completion of orientation. It is clear that for this closed time period, the Claimant's provider was approved to provide day care services and the Claimant is entitled to payment for CDC services delivered by the provider.

Once the provider approval was rescinded, based on the provider not completing the mandated training, the provider was no longer eligible; however, the Department's determination of the provider's lack of eligibility based upon failure to complete the training appears to be in error. The Department apparently concluded that provider orientation had not been completed even though a certificate of completion was in their file. The preponderance of the evidence presented at the hearing was that the provider completed the training. The only evidence that the training was not completed was an unaddressed September 1, 2010 letter concluding that Department records indicated that the training was not completed.

Under these circumstance, the matter of provider eligibility requires further resolution by the Department. The Department must determine if the provider eligibility was rescinded because of the orientation non attendance, and if so the Department

must reverse that determination as it was established at the hearing that the provider attended training.

If the provider was found to be ineligible for some other reason, then the Department must determine the reason and the Claimant must be properly informed so she will know that her provider during the time after August 31, 2010 was not eligible for payment and for what period of time. Without this information and decision by the Department the Claimant will be unable to determine whether her provider will be eligible for payment for services provided after completing orientation training and after August 31, 2010 when the Department changed the provider's eligibility status. This is particularly true because the provider continued to provide child care services for the Claimant during September 2010.

Claimants are entitled to receive a notice from the Department that the provider's enrollment is terminated. BEM 704

This decision was also influenced by the inability of the Department to say with certainty why the provider was no longer approved, and that the Claimant did not receive any communication from the Department regarding her provider's termination. Therefore, it is incumbent on the Department to take appropriate action and advise the claimant as to her provider's eligibility as required by BEM 704. If the Department determines that the provider was incorrectly terminated, the Claimant should be advised as to the provider's eligibility status. If the provider was correctly terminated for reasons other than failure to attend orientation, the Department is required to send the Claimant a DHS 4807C, which should have been sent when the provider assignment was active. BEM 704, page 14.

It is apparent that this matter could have been cleared up by the Department so that some action could have been taken by the Claimant to receive CDC assistance with a new provider while she was still eligible for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department's determination that the Claimant's provider may not receive payment for child care services performed before completion of orientation training is correct and is AFFIRMED. The Department's determination that the Claimant's provider did not complete the orientation training and therefore is not eligible is in error and any action denying the Claimant CDC benefits as a result of that action is REVERSED.

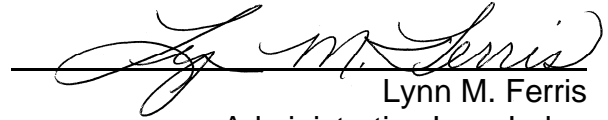
Accordingly, it is ORDERED;

The Department shall make a determination whether it correctly terminated the Claimant's provider as of August 31, 2010 for an appropriate reason provided by Department policy, other than for non completion of orientation training.

If the Department determines that it correctly terminated the provider for some other appropriate policy reason, it shall advise the Claimant that the provider is not approved and the date of ineligibility as required by Policy.

The Department shall be required to reimburse the Claimant for CDC benefits provided by her provider for the period that he was approved, August 17-31, 2010, if the provider seeks compensation for the period and submits the appropriate billings, and shall also reimburse the Claimant for CDC benefits for any subsequent period child care

services were provided if the Department determines that it improperly terminated the provider after August 31, 2010.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/03/11

Date Mailed: 02/10/11

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.

LMF/dj

cc:

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