

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 20111371
Issue No. 6019
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: November 1, 2010
Wayne County DHS

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 November 1, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether DHS properly terminated Claimant's Child and Development Care (CDC) benefits effective 5/8/10.
2. Whether DHS properly failed to make a CDC provider eligibility decision on Claimant's requested CDC provider.

FINDINGS OF FACT

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

1. Claimant was an ongoing CDC recipient.
2. DHS terminated Claimant's CDC benefits on 5/8/10 for unexplained reasons.
3. DHS also failed to approve one of Claimant's CDC providers for unexplained reasons.
4. Claimant requested a hearing on 9/13/10 disputing a termination of her CDC benefits and the failure by DHS to approve one of her CDC providers; Claimant

also disputed a hearing concerning her FAP benefits but Claimant indicates that issue was resolved prior to the hearing.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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, DHS concedes that they cannot explain why Claimant's CDC benefits terminated on 5/8/10. DHS advised Claimant that they would correct the mistake as soon as they could. The promises of DHS are relevant in explaining why Claimant did not request a hearing until approximately four months after the case closure. The undersigned finds that the promises of DHS to correct Claimant's CDC benefits excuses Claimant from filing a hearing request within 90 days from her CDC benefit termination. It is found that Claimant's hearing request was timely.

Concerning Claimant's CDC benefit termination on 5/8/10, DHS concedes that the benefits were terminated in error and should be reinstated. Based on agreement of the parties, it is found that DHS improperly terminated Claimant's CDC benefits effective 5/8/10.

Claimant also contends that DHS failed to approve one of her CDC providers so the provider can receive CDC payments. Neither child care providers nor CDC recipients are entitled to DHS administrative hearings based on provider/applicant termination or denial. BEM 704 at 10. The undersigned has no authority to order DHS to approve a denied CDC provider. The present case involves a CDC provider who is awaiting a decision of approval or denial; the undersigned appears to have authority to order DHS to complete the approval process.

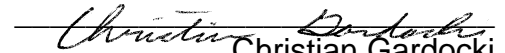
Within 6 workdays of receiving the DHS-220-A/R the local office must determine eligibility of the provider applicant. In the present case, DHS indicated that the wrong provider application was mailed to Claimant causing a delay in the provider approval process. DHS is currently awaiting return of the correct CDC provider application. It is

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found that DHS must complete the CDC provider approval process in accordance with DHS regulations.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated CDC benefits effective 5/8/10 as DHS failed to establish any basis for the termination. It is ordered that DHS reinstate Claimant's CDC benefits effective 5/9/10 and to determine eligibility for Claimant's CDC providers in accordance with their regulations. The actions taken by DHS are REVERSED.


Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 10, 2010

Date Mailed: November 10, 2010

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 60 days of the filing of the original request.

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.

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