

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.: 2011-2662
Issue No.: 6021
Case No.: [REDACTED]
Hearing Date: February 7, 2011
Wayne County DHS (31)

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 February 7, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly failed to allow CDC payments for Claimant from 1/2010-6/2010 based on Claimant's CDC provider's request.

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 was an ongoing CDC benefit recipient.
2. Until 12/2009, Claimant's CDC provider was [REDACTED].
3. On an unspecified date, Claimant requested a change in CDC providers from [REDACTED] to [REDACTED].
4. [REDACTED] was Claimant's CDC provider from 1/2010-6/2010.
5. [REDACTED] failed the background clearance to become an eligible CDC provider.

6. DHS did not attach a CDC provider to Claimant's CDC benefits from 1/2010-7/27/2010 thereby preventing any provider from billing DHS for CDC benefits.
7. On 10/4/10. Claimant requested a hearing disputing the failure by DHS to attach a CDC provider to Claimant's CDC benefits from 1/2010-7/27/2010.

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. 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).

Claimant contends that DHS failed to attach a CDC provider to her CDC benefits case from 1/2010-6/2010 thereby preventing her CDC provider from receiving CDC payments for that time period. Claimant indicated that CDC benefits were issued until 1/2010 and that Poise Miller was her selected provider.

DHS contended that Claimant requested a new CDC provider, [REDACTED], in 1/2010. [REDACTED] failed to pass the CDC provider clearances thereby preventing any CDC benefits from the time period.

The DHS representative in the present case was not Claimant's DHS specialist at the time of 1/2010, the time when Claimant stated that her CDC provider could not bill for CDC payments. This circumstance made it difficult to ascertain why Claimant's CDC provider was unable to bill for CDC performed from 1/2010-7/2010. It might be relevant to definitively determine whether Claimant's CDC benefits were closed or if the provider was removed to prevent CDC billing. It might also be relevant to determine why one of those actions occurred.

The undersigned requested the correspondence history and Notice of Case Action letters from DHS in an attempt to help explain what occurred with Claimant's CDC benefits. Unfortunately, no definitive finding could be made from those documents. Claimant and DHS seemed to agree that Claimant's benefits remained open from 1/2010-7/2010 but the problem was a lack of provider on the case. In lieu of evidence to the contrary, the undersigned will accept that from 1/2010-7/2010, Claimant had active CDC benefits but billing could not occur because of a CDC provider.

Claimant contended that she had no explanation why DHS would have removed her CDC provider, [REDACTED], from continuing to receive CDC payments. DHS could not definitively answer Claimant's contention because the testifying specialist had no first-hand knowledge of why [REDACTED] was removed as a CDC provider.

DHS had circumstantial evidence explaining why Claimant's CDC provider was removed. DHS speculated that Claimant requested the removal so she could employ a different CDC provider, [REDACTED]. DHS presented a CDC application (Exhibit 1) from Claimant dated 6/3/10. The application indicated that [REDACTED] was Claimant's CDC provider since 1/2010. [REDACTED] was not approved as a CDC provider because she failed the background clearance. Thus, Claimant was denied CDC benefits for the time [REDACTED] was Claimant's CDC provider (1/2010-7/2010).

Claimant submitted a second CDC application (Exhibit 2) to DHS on 7/28/10. This application listed [REDACTED] as Claimant's CDC provider since 11/2009. Claimant responded that [REDACTED] was not her CDC provider from 1/2010-7/2010 and she only listed her as a CDC provider on her application dated 6/3/10 because she was told by DHS to list her. Claimant provided no supporting evidence for this contention. Claimant insisted that [REDACTED] was her provider since 11/2009 but only after Claimant learned that she would not receive CDC benefits because of [REDACTED] ineligibility as a CDC provider. When there is a contradiction between a person's testimony and a prior written statement, the undersigned is more inclined to trust the previous written statement. It is found that [REDACTED] was Claimant's CDC provider from 1/2010 until 7/28/10, the date of Claimant's CDC application (Exhibit 2) listing a different CDC provider.

It was not disputed that DHS properly denied [REDACTED] provider eligibility based on her failure to pass a background clearance. Accordingly, Claimant's CDC provider, [REDACTED], is not entitled to bill for CDC benefits from 1/2010-7/28/2010 because the provider was not eligible to receive CDC payments.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not attach a CDC provider to Claimant's CDC benefits from 1/2010-7/2010 because Claimant's actual CDC provider was ineligible to receive CDC provider payments. The actions taken by DHS are AFFIRMED.

Christian Gardocki

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

20112662/CG

Date Signed: 3/1/2011

Date Mailed: 3/1/2011

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.

CG/jlg

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