

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

IN THE MATTER OF:



Reg No: 2011 9156
Issue No: 6021
Case No: [REDACTED]
Hearing Date:
January 3, 2011
Wayne County DHS (49)

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 January 3, 2011. The Claimant was present and testified. K. Johnson, FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly implemented the Settlement in a prior hearing to reinstate Claimant's Child Development and Care (CDC) case ?

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 September 15, 2009, the Claimant had a hearing before Administrative Law Judge Jan Leventer wherein the Department agreed to settle the case with regard to the Claimant's CDC eligibility.

2. Judge Leventer's Hearing Decision was issued September 16, 2010, and ordered the Department, pursuant to its settlement agreement, to reinstate Claimant's CDC benefits for July 16, 2009 through October 24, 2009.

Exhibit 1

3. As of the date of this hearing (January 3, 2011), the Claimant's then provider () has not received payment for CDC services for the reason that the provider and has been unable to submit his billings for payment.
4. As late as December 2010, the provider attempted to bill the Department and was unable to submit a billing in its system.
5. At the hearing, the Department testified that it had attempted to manually authorize provider payments.
6. As of the date of the hearing, the Claimant's provider has not received payments for CDC service he has provided and has been unable to bill the Department for services rendered.
7. It was unclear why the Department had been unable to correct the problem with regard to the CDC provider's inability to bill for services and did not have a solution for the problem. Exhibit 1 Hearing Summary
8. On November 19, 2010, the Claimant requested a hearing protesting the failure of the Department to resolve the inability of her provider to bill for CDC services during the period July 16, 2009 through October 24, 2009.

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).

The rules and requirements regarding administrative hearings regarding benefits administered by the Department are found in BAM 600. Once a hearing decision is issued, the Department has 10 calendar days of the mailing date of the decision to implement the decision. Specifically it provides:

Some hearing decisions require implementation by the local office. Implement a decision and order within ten calendar days of the mailing date on the hearing decision. **Do not** provide a notice of case action. The D&O serves as notice of the action.

In this matter, the Department reinstated the Claimant's CDC benefits in accordance with its agreement to settle this matter, however as of the date of the hearing the CDC provider has not been able to bill for or receive any payment for services provided over one year ago. The Department has apparently not been able to resolve the reason why the billing cannot be made and was unable to offer any reason why the provider could not bill for the services provided even after the provider attempted in December 2010 to bill once again for the services at the Department's direction. Under these circumstances it must be found that the Department has not fulfilled the terms of the original settlement confirmed and ordered on September 16, 2010.

In this case the Claimant has requested a hearing and is entitled to a determination because the Department has placed restrictions under which the Claimant's CDC benefits or services are provided. BAM 600, page 3.

Under these factual circumstances, it is apparent that the settlement agreed to by the Department has not been meaningful for the Claimant. While the Claimant's CDC benefits were reinstated as agreed, the fact is her provider has been unable to bill for the services and the Claimant is therefore not receiving the benefits she is entitled to receive. This is not a situation where the provider is not approved or for some reason is ineligible. Given these facts, the Department has no legitimate reason for the failure to resolve the ability of the Claimant's provider to bill, nor did it offer any clear solution and therefore is ordered to correct any problems preventing the billing so that the provider can submit billings for payment and receive payment if otherwise eligible.

Based on the record presented by the Department at the hearing and its failure to resolve the problem, or articulate the reasons why the Claimant's provider cannot bill for CDC services provided, the Department is required to fully fix the billing problem in this matter within the time provided, 10 calendar days from this decision date, so that the settlement affirmed by the hearing decision issued September 16, 2010 by Judge Leventer is fully implemented.


DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department has not implemented the terms of the September 16, 2010 settlement it made with the Claimant and its failure to resolve the inability of the Claimant's CDC provider to be allowed to bill for CDC services has not allowed to the Claimant to receive CDC benefits and deprived her of same as her provider cannot bill

for services although eligible. Therefore the Departments is Ordered to fully activate CDC benefits for the Claimant.

Accordingly, it is ORDERED:

1. The Department shall, within 10 days from the date of this decision fully activate CDC coverage for the Claimant effective July 16, 2009 through October 24, 2009 and shall also as part of the proper activation of CDC coverage take all steps necessary to allow the claimant's provider, to bill for CDC services rendered during the period July 16, 2009 through October 24, 2009.


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:

[REDACTED]