

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.: 2011-9606
Issue No.: 6021
Case No.: [REDACTED]
Hearing Date: February 9, 2011
Wayne County DHS (15)

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 9, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant timely requested a hearing concerning the termination of CDC benefits effective 2/27/10.

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 recipient.
2. On an unspecified date in 12/2009, DHS terminated Claimant's CDC provider's eligibility.
3. The CDC provider termination did not affect claimant's CDC benefit eligibility but prevented a CDC provider from billing for CDC services.
4. On 2/8/10, DHS mailed Claimant a Notice of Case Action (Exhibit 1) informing Claimant that CDC benefits would be terminated due to an alleged failure by Claimant to submit a Child Development and Care Provider Verification DHS-4025.

5. The CDC benefit termination was to be effective 2/27/2010.
6. On 11/24/10, Claimant requested a hearing disputing the termination of CDC benefits including the lack of CDC billing allowed effective 12/2009.

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 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 established that Claimant was mailed a Notice of Case Action (Exhibit 1) terminating Claimant's CDC benefits on 2/8/10. The address on the Notice of Case Action was confirmed by Claimant as correct as of the mailing date of the notice. Claimant denied receiving the notice however it is almost certain that the Notice of Case Action was mailed by the automated DHS mailing system. It is found that a written notice terminating Claimant's CDC benefits was mailed to Claimant in 2/2010.

Claimant requested a hearing disputing the termination of her CDC benefits on 11/24/2010. Claimant testified that she also submitted a hearing request to DHS in 6/2010 but withdrew the request after DHS made statements to her that led to her believe a hearing was not necessary. Even if the undersigned credits Claimant with a 6/2010 date in requesting a hearing, Claimant would have exceeded the 90 day timeframe from the date of the written notice of case action. It is found that Claimant exceeded the time limit to dispute the termination of her CDC benefits.

Testimony and evidence was submitted concerning the underlying issues whether DHS properly processed Claimant's requests for a new CDC provider and whether DHS properly terminated Claimant's CDC benefits. Though the undersigned can make no official findings concerning either of these issues, there was sufficient evidence submitted to establish that DHS may have erred concerning the termination of CDC benefits. Unfortunately for Claimant, this conclusion is non-binding because of the tardiness of her hearing request.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely appeal the 2/2010 termination of CDC benefits. Accordingly, Claimant's hearing request is DISMISSED.

Christian Gardocki

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

Date Signed: 2/28/2011

Date Mailed: 2/28/2011

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.

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