

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

Reg. No: 201269907
Issue No: 3000, 6022
Case No: [REDACTED]
Hearing Date: September 11, 2012
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on September 11, 2012. Claimant did not appear but was represented by her authorized hearing representative who is also her [REDACTED] r. During this hearing Mrs. Price stated there was not a Food Assistance Program (FAP) issue for this hearing. The Food Assistance Program (FAP) portion of this hearing is dismissed.

ISSUE

On July 30, 2012, did the Department of Human Services properly deny Claimant's Child Development and Care (CDC) benefits retroactively to July 1, 2012?

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 recipient of Child Development and Care (CDC) benefits.
2. On June 19, 2012, Claimant began employment.
3. On July 10, 2012 Claimant was sent a New Hire Client Notice (DHS-4635). The employment information was due back by July 20, 2012.
4. On July 20, 2012, Claimant submitted the form with the employment information.
5. On July 30, 2012, Claimant was sent notice that she was not eligible for Child Development and Care (CDC) beginning July 1, 2012.

6. On August 17, 2012, Claimant submitted a request for 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 (DHS or department) 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 Program Reference Manual (PRM).

In this case Claimant's authorized hearing representative asserts that Claimant was not given adequate notice of the denial of CDC benefits retroactively to July 1, 2012. The Hearing Summary (DHS-3050) prepared by the Department states "client was ruled ineligible for CDC base don increased income from date of employment." The Department case worker present at the hearing asserted the action was appropriate because Claimant had not reported the income within 10 days as required by policy.

Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BAM 220 CASE ACTIONS DEPARTMENT POLICY All Programs

Process the following case actions:

- Initial applications and reapplications (BAM 115).
- Redeterminations (BAM 210).
- Reinstatements (BAM 205).

Bridges will evaluate each change reported and entered in the system to determine if it affects eligibility.

Changes in circumstances may be reported by the client, via computer tape matches, through quality assurance (QA) reviews, or by other means.

A **positive action** is a DHS action to approve an application or increase a benefit.

A **negative action** is a DHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-

eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement.

NOTICE OF CASE ACTIONS

All Programs

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

Adequate Notice An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

- Approval/denial of an application.
- Increase in benefits.

Timely Notice

All Programs

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. See Adequate Notice and for CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action.

Actions Not Requiring Notice

CDC Provider Certificate/Notice of Authorization CDC Only

Notify CDC providers in writing when:

- Adding a new authorization for that provider.
- Shortening or lengthening an authorization period for that provider.
- Increasing or decreasing the authorized hours for that provider.
- Closing the CDC EDG.
- Increasing or decreasing the department pay percent for that provider.

EFFECTIVE DATE OF CHANGE All Programs

Bridges evaluates the following dates entered in data collection to determine positive action dates, negative action dates and effective dates:

- Circumstance start/change date.
- Reported on.
- Verification received on.
- Date client became aware.

CDC Only

Act on reported changes as soon as possible, but act within the standard of promptness; see STANDARDS OF PROMPTNESS, this item. The day a reported change is acted on is not always the day the change must take effect.

Positive Actions can be entered on Bridges to affect current, future, and past CDC pay periods. First determine the positive action date. If the change was reported timely, for example a change in providers, (within 10 calendar days), the positive action date is the day the change occurred or is expected to occur. If the change was reported late, the positive action date is the day the change was reported. Positive actions take effect on the positive action date.

Exception: Department pay percent increases affect the first CDC pay period that begins on or after the positive action date.

Note: For a new or changed authorization to take effect on the positive action date, begin it the first day of the CDC pay period that contains the positive action date.

Negative Actions: If timely notice is required, the negative action date must be the first work day at least 11 days after the notice was sent, or the date the change is expected to occur if that is later. If adequate or no notice is required, the negative action date is immediate (the day action is taken on the change), but not before the change is expected to occur.

The following negative changes entered on Bridges take effect as follows:

- Department pay percent decreases take effect in the first CDC pay period that starts on or after the negative action date.
- CDC case closures and member removals (for example removing an eligible child) take effect on the negative action date.

Case actions that end an authorization without removing a member or close the CDC eligibility determination group (EDG) are not pended. If the ended authorization is not being replaced, or is being replaced with one for fewer hours, the change affects the first CDC pay period that begins on or after the negative action date. If replacing the authorization with one for more hours, the rules for positive actions are applied.

The Department policy cited above does not contain any provision for a retroactive date of change for a negative action. Incidents of failure to report changes in a timely manner may be referred to a Recoupment Specialist for determination of whether an over-issuance occurred but are not properly the basis of a retroactive date of change for a negative action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services DID NOT properly deny Claimant's Child Development and Care (CDC) benefits retroactively to July 1, 2012.

It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

It is further ORDERED that Claimant's Child Development and Care (CDC) eligibility be restored from July 1, 2012 until the correct effective date for closure dictated by Department policy.

/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 18, 2012

Date Mailed: September 20, 2012

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.

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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.

GFH/tb

cc:

