

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-72256
Issue Nos.: 6019, 6043
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on February 14, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department provide the Claimant proper notice regarding the Child Development and Care (CDC) case closure?

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 May 19, 2012, the Department closed the Claimant's CDC case due to excess income.
2. On May 31, 2012, the Department sent the Claimant a notice of case action and a CDC notice of authorization. The notice of case action indicated the Department was closing the Claimant's CDC benefits effective June 17, 2012. The CDC notice of authorization indicated the Claimant was approved for CDC benefits from April 8, 2012 through May 19, 2012.
3. On August 17, 2012, the Claimant requested a hearing to dispute the notice she received regarding the CDC closure.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The CDC 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 provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. (BAM 600).

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. Timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. (BAM 220).

Policy in this case does not specify adequate notice or no notice when a Claimant's CDC benefits are closed due to excess income. Therefore, Claimant is entitled to timely notice.

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. (BAM 220).

CDC case closures and member removals (for example, removing an eligible child) take effect on the negative action date. (BAM 220).

In the present case, the Claimant may have had excess income prior to May 19, 2012. However, based on the testimony and exhibits presented, I find the Department did not provide the Claimant with timely notice as required by Department policy. Based on policy, the case closure is to take effect 11 days after the notice is issued. Because the notice in this case was issued on May 31, 2012, the closure should have occurred on or after June 11, 2012.

I find it very interesting that the notice of case action received by the Claimant on March 27, 2012 indicates a future CDC closure date and makes no mention of the prior closing date.

Based upon the above Findings of Fact and Conclusions of Law, I find Department improperly closed Claimant's case for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly.

Accordingly, the Department's CDC decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination as to the Claimant's eligibility for CDC benefits beginning May 19, 2012 and extending through at least June 11, 2012 and issue retroactive benefits if otherwise eligible and qualified.

/s/
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: February 15, 2013

Date Mailed: February 15, 2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

2012-72256/CAA

CAA/las

cc:

