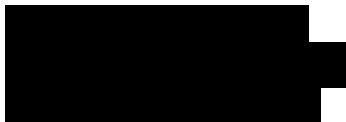


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2012902

Issue No: 6022

Case No: [REDACTED]

Hearing Date:

November 30, 2011

Arenac County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 November 30, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly issued payment of the claimant's Child Development and Care (CDC) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The claimant applied for, and was approved for CDC benefits prior to August 29, 2011.
2. The claimant submitted a redetermination and corresponding pay stubs on July 29, 2011. (Department Exhibits 1-2).
3. Based on the redetermination, the claimant's CDC case was closed due to excess income. (Department Exhibits 5-8).
4. The claimant was sent a notice of case action (DHS 1605) on August 29, 2011 stating that her CDC benefits would be closed as of September 11, 2011 due to excess income. (Department Exhibit 11).

5. The claimant's day care providers were sent notice on August 29, 2011 stating that payment would not be made on behalf of the claimant's children effective August 13, 2011. (Department Exhibit 12).
6. The claimant's day care providers were sent a second notice on September 9, 2011, again stating that payment would not be made on behalf of the claimant's children effective August 13, 2011. (Department Exhibit 13).
7. The claimant filed a request for hearing on September 9, 2011 protesting the date payment of CDC benefits ceased.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

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. BAM 600.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

In the case at hand, the claimant is contending that she should have been provided benefits up until the date indicated on her notice of case action. This Administrative Law Judge agrees. In relation to notice requirements for case actions, department policy states as follows:

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.

For **FAP Only**, see **Actions Not Requiring Notice** in this item.

Exception: Written notice is **not** required to implement a hearing decision or policy hearing authority decision.

Refer to policy in BAM 600 if a client contacts you to dispute a case action.

There are two types of written notice: **adequate** and **timely**.

A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

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.

FIP, RAPC, SDA, MA, CDC and AMP Only

- A recipient or his legal guardian or authorized representative requests in writing that the case be closed.
- Factual information confirms a recipient's death.
- You verify that a recipient has been approved for assistance in another state.
- You verify that an eligible child, **or in MA**, an eligible group member of any age, has been removed from the home as a result of court action.

CDC

- The client or provider reports, orally or in writing, that a child is no longer in the care of that provider.
- The client or provider reports, orally or in writing, a need for fewer authorized hours.
- You verify that a child member of the program group was voluntarily placed in foster care.
- Information verifies the provider is no longer eligible to receive payments.

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.

CDC Provider Certificate/Notice of Authorization

Notify CDC providers in writing when you:

- Add a new authorization for that provider.
- Shorten or lengthen an authorization period for that provider.
- Increase or decrease the authorized hours for that provider.
- Increase or decrease the department pay percent for that provider.
- Close the CDC EDG. BAM 220.

In this matter, the notice provided to the claimant directly conflicts with the notice provided to the day care providers. The notice provided to the claimant states that the claimant's CDC benefits will cease as of September 11, 2011. This notice was sent on August 29, 2011 and appears to be timely and proper. The notice sent to the day care providers states that the payments for the claimant's children will end (retroactively effective) on August 13, 2011. In this case the claimant's group was determined to be ineligible for CDC benefits due to excess income. Therefore, policy states that the claimant should have been given timely notice of the termination of her benefits. Although the claimant was notified that her benefits would continue through September 11, 2011, payments of said benefits ceased as of August 13, 2011.

At the hearing, the department representative testified that upon a request for policy clarification, she was told that only adequate notice was required under the provision in BAM 220 which states that such notice is required if information verifies that the provider is no longer eligible to receive payments. There has been no evidence presented to show that the provider is no longer eligible to receive payments. Although the claimant's group is no longer eligible due to excess income, nothing shows that the providers themselves are not eligible to receive payments. Therefore, this Administrative law Judge finds that timely notice was required.

Even if adequate notice was required in this case, the notice the department provided to the daycare providers can not be construed as adequate notice. The notice was sent after the date the payments were to cease and therefore was not sent at the same time of the negative action. In order for notice to be adequate, it must be sent out at the same time as the negative action, not after the date of negative action. BAM 220. The notice sent to the day care providers cannot be construed as adequate notice.

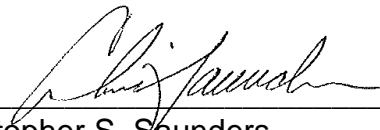
This Administrative Law Judge finds that the claimant was required to receive timely notice of the termination of her CDC benefits. Therefore, the claimant should have continued to receive benefits until September 11, 2011; the date indicated on her notice of case action from August 29, 2011.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that that the claimant should have continued to receive CDC benefits until September 11, 2011; the date indicated on her notice of case action from August 29, 2011.

Accordingly, the department's actions are REVERSED.

It is HEREBY ORDERED that if the claimant is otherwise eligible, the department shall provide to the claimant any CDC benefits due and owing up to the date of September 11, 2011.



Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 12/6/11

Date Mailed: 12/6/11

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.

2012-902/CSS

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

CSS/hw

cc:

