

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

IN THE MATTER OF:



Reg. No.: 201323317
Issue No.: 6015
Case No.: [REDACTED]
Hearing Date: May 9, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) case based on failure to complete a redetermination?

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 recipient of CDC benefits.
2. On September 17, 2012, the Department sent Claimant a Child Development and Care Client Certificate/Notice of Authorization indicating that the Department's pay percentage was 95% between May 20, 2012, and July 28, 2012 and 70% from July 29, 2012 to October 6, 2012.
3. The Department closed Claimant's CDC case effective October 6, 2012.

4. On December 7, 2012 and February 25, 2012, Claimant filed requests for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

The Child Development and Care (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 Mich Admin Code, R 400.5001 through R 400.5015.

Additionally, the Department testified that it closed Claimant's CDC case effective October 6, 2012, because Claimant had failed to timely submit a completed redetermination.

Clients must complete redeterminations periodically for the Department to determine the clients' ongoing eligibility for program benefits. BAM 210 (May 2012), p 1. The Department testified that a redetermination form was generated by its central processing office in Lansing and sent to Claimant's address of record at the time it was sent. At the hearing, the Department produced a copy of the CDC redetermination sent to Claimant on August 14, 2012, with a September 4, 2012, due date. Claimant verified that the redetermination was properly addressed to her based on her address at the time it was sent, but she did not recall getting the document. Claimant failed to rebut the presumption that she received properly addressed correspondence sent to her in the ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976). Thus, the Department could, if it acts in accordance with Department policy, close Claimant's case based on her failure to submit the redetermination.

In this case, Claimant contended that she was not aware that the Department had closed her case. If the redetermination packet for a CDC case is not logged in by the negative action cut-off date of the redetermination month, the Department sends a DHS-1605, Notice of Case Action, and automatically closes the EDG (eligibility determination group). BAM 210, p 9. The Notice of Case Action specifies the action being taken by the Department, the reason for the action, the specific manual time which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing, and the conditions under which benefits are continued if a hearing is requested. BAM 220 (July 2012), pp 1-2.

In this case, the Department failed to produce a notice of case action advising Claimant of the closure of her CDC case effective October 6, 2012. While the Department provided Notices of Case Action dated November 28, 2012 and December 27, 2012 (Exhibits 1 and 2) showing that Claimant was denied CDC coverage between July 29, 2012 and October 6, 2012, the Department testified that these Notices were inaccurate, that Claimant was in fact eligible for and received CDC benefits between July 29, 2012 and October 6, 2012, and that her CDC case closed on October 6, 2012 because she had failed to complete the redetermination process. Because the Department did not send a Notice of Case Action to Claimant notifying her of the closure of her CDC case, the Department did not act in accordance with Department policy.

At the hearing, the Department contended that Claimant was advised of the closure of her CDC case because she was sent a Child Development and Care Client Certificate/Notice of Authorization dated September 17, 2012, which showed that the Department's pay percentage was 95% for May 20, 2012 through July 28, 2012 and 70% for July 29, 2012 through October 6, 2012 (Exhibit 3). The Department argued that, because the Notice specified an October 6, 2012 end pay period date and indicated in small wording in the fourth comment marked under "important" at the bottom of the page that "[i]f there is a 99/99/9999 at the end of the pay period date, authorization will continue until you are mailed notification of an end date," Claimant was notified of the closure of her CDC case. This Notice, which was on a DHS 198-C form, is produced and sent to the client at case closure. See RFF 198-C (October 1, 2011), p 2. However, BAM 210 clearly provides that a DHS-1605 Notice of Case Action is sent to a client when the client's CDC case is closed for failure to return a redetermination. Because the RFF 198-C did not specify the information required in a notice of case action, the RFF 198-C was not an adequate substitute to notify Claimant of the closure of her CDC case.

In this case, the Department did not act in accordance with Department policy when it failed to send Claimant a Notice of Case Action notifying her of the closure of her CDC case effective October 6, 2012.

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 in accordance with Department policy when it failed to properly notify Claimant of the closure of her CDC case.

Accordingly, the Department's 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. Reinstate Claimant's CDC case as of October 7, 2012;

2. Begin reprocessing Claimant's CDC redetermination in accordance with Department policy;
3. Issue supplement to Claimant's provider, in accordance with Department policy, for CDC benefits Claimant was eligible to receive but did not from October 7, 2012, ongoing; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/17/2013

Date Mailed: 5/17/2013

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

ACE/hw

cc:

