

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201325066
Issue No.: 6022
Case No.: [REDACTED]
Hearing Date: May 16, 2013
County: Wayne (35)

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 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's child care provider (Provider). Participants on behalf of the Department of Human Services (Department) included [REDACTED], PATH Worker.

ISSUE

Did the Department properly provide Claimant with Child Development and Care (CDC) benefits from December 16, 2012, ongoing?

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 September 1, 2012, Claimant submitted a CDC application identifying Provider as her CDC provider.
2. The Department did not begin processing Claimant's application until October 2012.
3. On October 30, 2012, the Department notified Provider that she was not eligible to be a CDC provider under Department policy.

4. On November 2, 2012, Provider went to the Child Protective Services Central Registry Office to resolve the issue preventing her from being an eligible CDC provider.
5. On November 30, 2012, the Department sent Claimant a notice advising her that, effective November 30, 2012, her name was permanently removed (expunged) from Central Registry.
6. On January 11, 2013, Claimant filed a request for hearing concerning the Department's failure to issue CDC benefits to her from September 2012, ongoing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), and the 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, before an unlicensed child care provider can be enrolled as a CDC provider, the Department must complete a Children's Protective Services Central Registry clearance. BEM 704 (September 2012), p 7. Central Registry information is confidential and cannot be released. BEM 704, p 7. If there is a valid match, no further clearances are run. BEM 704, p 8.

In this case, Provider did not pass the Central Registry clearance performed by the Department when it attempted to enroll Provider as Claimant's CDC provider. The Department informed Provider that she did not pass the Central Registry clearance. Provider credibly testified that she spent several days attempting to have the matter cleared. On November 30, 2012, the Department sent Provider notice that, effective that day, her name was expunged from the Central Registry.

When a provider is expunged (removed) from the Central Registry, the provider must complete a new DHS-220, Child Development and Care Unlicensed Provider Application, completed after the expungement date. BEM 704, p 11. The Department then completes all remaining background clearances and enters a CDC service begin date the first day of the pay period after the expungement date. BEM 704, p 11.

In this case, the first day of the pay period after Provider's November 30, 2012 expungement was December 2, 2012. However, the Department approved Claimant's

CDC benefits for the pay period beginning December 16, 2012. Thus, the Department did not act in accordance with Department policy when it did not approve Claimant for CDC benefits for the pay period between December 2, 2012 and December 15, 2012.

At the hearing, Claimant and Provider contended that, because the Department delayed processing Claimant's September 1, 2012 CDC application, it delayed Provider's resolution of the Central Registry matter and her enrollment as an eligible CDC provider. A client is not eligible for CDC benefits until the Department verifies that an eligible provider is providing the care. BEM 703 (October 2012), p 1; BEM 702 (January 2011), p 1. Although the Department did not process the September 1, 2012 CDC application timely, the Department did not send Provider a notice informing her that she was an eligible provider or a DHS-198 Child Care Provider Authorization prior to December 16, 2012 authorizing her to bill the Department for the care of Claimant's children. The Department did not send Claimant a DHS-198-C, Child Development and Care Client Certificate, notifying her that Provider was authorized to bill the Department prior to December 16, 2012 for the care of her children. See BAM 115 (May 2012), pp 12-13; BEM 704, p 10. Thus, the Provider and Claimant were not misled into believing that Provider had been approved as a CDC provider prior to December 16, 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 authorize Claimant's Provider to bill the Department for CDC services provided to Claimant's children for the payment period between December 2, 2012 and December 15, 2012.

Accordingly, the Department's decision is REVERSED with respect to the failure to authorize CDC benefits on Claimant's behalf for the payment period between December 2, 2012, and December 15, 2012.

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

1. Begin allowing Claimant's provider to bill the Department, in accordance with Department policy, for CDC services provided to Claimant's eligible children for the period between December 2, 2012 and December 15, 2012; and
2. Issue supplements to Claimant's provider, in accordance with Department policy, for

CDC benefits Claimant was eligible to receive between December 2, 2012 and December 15, 2012.



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

Date Signed: 5/29/2013

Date Mailed: 5/29/2013

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:

