

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

IN THE MATTER OF:



Reg. No.: 20133311
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: February 27, 2013
County: Genesee 06

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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, an in-person hearing was held on February 27, 2013. Participants on behalf of Claimant included [REDACTED], and [REDACTED], provider. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], FIS and [REDACTED], FIM.

ISSUES

1. Is Claimant entitled to CDC payments during a time period for which she had no provider approved by the DHS?
2. Is there any jurisdiction for an Administrative Law Judge (ALJ) to review a request by a claimant and a provider on a CDC case which deals with a provider/applicant denial or closure?

FINDINGS OF FACT

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

1. On 5/10/12, Claimant applied for CDC with the Michigan DHS. The DHS failed to properly record Claimant's application.
2. The DHS denied Claimant's provider based on an automated background check.
3. Claimant's provider was expunged pursuant to a court order on 4/22/12 and cleared of the criminal record as of 5/1/12.

4. Claimant's provider did not complete the class and qualify under DHS policy and procedure to provide services until 7/15/12. Claimant is not eligible for payments until her provider met the 7/15/12 class requirements.
5. Claimant's provider was given written notice by the department as to how to appeal any grievances. This review process is an administrative review and does not involve MAHS or administrative hearings.
6. Administrative appeal procedures changed from the time Claimant's provider was denied as compared to policy in effect as of the administrative hearing. Under both policies, neither child care providers nor CDC recipients are entitled to administrative hearings based upon a provider's denial or closure.
7. The department issued a notice of denial of payments on 6/14/12.
8. Claimant subsequently requested a hearing on 7/24/12.
9. On 10/16/12, [REDACTED], [REDACTED] with MAHS, issued an Order of Dismissal Lack of Jurisdiction regarding a request on a hearing regarding a provider. The Order indicates that DHS policy and procedure does not allow administrative hearings regarding denials of a CDC provider application.
10. On 1/31/13, Supervising Administrative Law Judge [REDACTED] issued an Order Vacating Dismissal. Judge [REDACTED] ordered that the hearing was to be scheduled for an in person hearing pursuant to claimant's hearing request signed on 7/24/12.

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 Bridges Reference Manual (BRM).

In this case, Claimant presented substantial and credible evidence, meeting a preponderance of evidence standard to indicate that she applied for CDC on 5/10/12. 2012. The DHS was unprepared at the administrative hearing to discuss the issue of Claimant's application. The DHS was unable to bring forth evidence sufficient to rebut Claimant's credible and substantial evidence of having filed a CDC application on

5/10/12. Evidence in the file as it stands, while not a formal application, clearly points to the DHS having received at least a partial application on behalf of Claimant on 5/10/12.

Under general policy, application processing and policy and procedures, this ALJ finds that the DHS failed to properly process Claimant's application. Thus, this Administrative Law Judge finds that Claimant applied for CDC on 5/10/12.

However, as discussed below, Claimant would not be entitled to any payments pursuant to CDC policy and procedure even if the 5/10/12 application was recognized as Claimant's provider did not meet the policy requirements in effect at the time of the May, 2012 application.

ISSUE I

CDC policy and procedure does not allow payment to a provider until the provider meets certain necessary requirements. Applicable to the case herein, the provider must complete a certain class. Substantial and credible on the record indicates that Claimant's provider did not complete the class until 7/15/12. Thus, there is no eligibility for Claimant to be paid for a provider prior to the provider meeting the DHS policy requirements under CDC policy and procedure. Thus, the DHS's denial of any claims prior 7/15/12 is hereby upheld. BAM Item 110, 125, 126, 210; DHS 759.

ISSUE II

Applicable policy and procedure regarding CDC providers in effect on July 1, 2012 states, in part:

BAM Item 704 discusses CDC providers.

Administrative review process: providers/provider applications who have been denied or closed as a result of criminal conviction or pending charge by the local office may request an administrative review. The DHS-759, Request for Administrative Review of the Denial or Termination of Provider Enrollment, instructs providers to send all documentation to the local office where the denial or closure took place.

When a request for Administrative Review is received, the local office should:

- Give the administrative review request to the local office person who maintains the provider files.
- The provider file should be pulled; any information regarding the provider's denial or closure, ...should be attached to the Administrative Review material.
- ... CDC policy will:

- Make a determination to approve or deny the provider;
- Notify the provider/applicant of the approval or denial
- Remove the closure reason, if applicable
- BAM item 704, pgs. 11-12

This policy further states with regard to administrative hearings:

Neither childcare providers nor CDC recipients are entitled to administrative hearings based on the provider/applicant denial or closure. BAM Item 704, p. 315.

As noted above, the undersigned Administrative Law Judge has no jurisdiction to review or hold an administrative hearing based on a provider/applicant denial or closure. Thus, on this issue, Claimant's hearing request is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

Issue 1: Claimant is not entitled to any payments prior to Claimant's provider meeting the eligibility requirements on 7/15/12 under DHS policy and procedure.

On this issue, the DHS's denial is partially affirmed.

Issue 2: There is no jurisdiction for the undersigned Administrative Law Judge to review or hold an administrative hearing regarding a childcare provider's denial.

On this issue, Claimant's hearing request is dismissed.

IT IS SO ORDERED.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/7/13

Date Mailed: 5/10/13

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.

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.

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

JGS/tb

cc:

