

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-37369
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 5, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's Child Day Care Provider, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Eligibility Specialist. Also, the Office of Child Support (OCS) was not present for the hearing.

ISSUES

Did the Department properly close Claimant's Child Development and Care (CDC) program benefits effective December 30, 2012, ongoing, due to her failure to establish paternity and/or obtain child support?

Did the Department properly calculate Claimant's CDC benefits effective December 30, 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. Claimant was an ongoing recipient of CDC benefits. See Exhibit 2.
2. On November 8, 2012, Claimant was in non-cooperation status with the OCS. See Exhibit A.

3. On February 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits were closed effective December 30, 2012, ongoing, due to the non-cooperation status with the OCS. Exhibit 1.
4. On February 14, 2013, Claimant was in cooperation status with the OCS. Exhibit A.
5. On February 28, 2013, the Department sent Claimant a Redetermination (DHS-1010), which was due back by March 15, 2013. Exhibit 1.
6. On March 18, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her CDC benefits would close effective March 24, 2013, ongoing, due to her failure to submit the a completed redetermination. Exhibit 1.
7. On March 19, 2013, Claimant submitted a completed redetermination. See Exhibit 1.
8. On March 27, 2013, Claimant filed a hearing request, disputing her CDC benefits. Exhibit 1.
9. On April 5, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her CDC benefits were denied from July 1, 2012, through February 9, 2013, due to the non-cooperation with the OCS. Exhibit 2.
10. On April 5, 2013, the Notice of Case Action also notified Claimant that her CDC benefits were approved for 80 authorized hours and 95% DP coverage for March 10, 2013, through March 23, 2013. Exhibit 2.
11. On April 5, 2013, the Notice of Case Action also notified Claimant that her CDC benefits were approved for 80 authorized hours and 95% DP coverage for April 7, 2013, ongoing. Exhibit 2.

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 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.

Preliminary matters

First, on March 18, 2013, the Department sent Claimant a Notice of Case Action notifying Claimant that her CDC benefits would close effective March 24, 2013, ongoing, due to her failure to submit the a completed redetermination. Exhibit 1. However, on March 19, 2013, Claimant submitted the redetermination. See Exhibit 1. The Department processed the redetermination and it deleted the pending negative action. See BAM 220 (November 2012), pp. 9-10.

Second, on April 5, 2013, the Department sent Claimant a Notice of Case Action based on the submitted redetermination. Exhibit 2. Claimant's hearing request is dated March 27, 2013. See Exhibit 1. Thus, if Claimant disputes any of the actions taken on the April 5, 2013 Notice of Case Action, she will have to file another hearing request. This hearing decision cannot address any Notice of Case Actions subsequent to her hearing request date. See BAM 600 (February 2013), pp. 3-4.

CDC benefits – non-cooperation with the OCS

Regarding CDC cases, failure to cooperate without good cause results in ineligibility for CDC. BEM 255 (December 2011), p. 11. The Department will close or deny the CDC Eligibility Determination Group (EDG) when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, p. 11.

Additionally, the Department will not restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. BEM 255, p. 12. The Department will end the non-cooperation record if OCS records the comply date. BEM 255, p. 12. For CDC income eligible cases, the clients must reapply for program eligibility if the OCS comply date did not exist before the negative action effective date of the closure. BEM 255, p. 12.

In this case, Claimant was an ongoing recipient of CDC benefits. See Exhibit 2. On November 8, 2012, Claimant was in non-cooperation status with the OCS. See Exhibit A. On February 6, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC benefits were closed effective December 30, 2012, ongoing, due to the non-cooperation status with the OCS. Exhibit 1. The negative action effective date is February 20, 2013. See Exhibit 1. On February 14, 2013, Claimant was in cooperation status with the OCS. Exhibit A.

A negative action is a Department action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. The negative action date is the day after the timely hearing request date on the Department's notice of case action. BAM 220, p. 9. The timely hearing request date is the last date on which a client can request a hearing and have benefits continued or restored pending the hearing. BAM 220, p. 9. It is always the day before the negative action is effective. BAM 220, p. 9. If the requirement is met before the negative action effective date, then the Department will enter the information the client provided to meet the requirement that caused the

negative action. BAM 220, p. 10. The Department will then delete the negative action by reactivating the program and run eligibility and certify the results. BAM 220, p. 10. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 10.

In the present case, Claimant's Request for a Hearing stated that Claimant can submit a timely hearing request on or before February 19, 2013. BAM 220, p. 9 and see Exhibit 1. Thus, February 20, 2013 is the negative action date, which is the date after the timely hearing request date. BAM 220, p. 9. It should be noted that Claimant's Request for Hearing date is March 27, 2013, which is after the timely hearing request. See Exhibit 1. However, the evidence indicated that Claimant was in cooperation with OCS on February 14, 2013. Thus, the February 14, 2013, comply date was met *before* the February 20, 2013, negative action effective date (emphasis added).

Based on this information, the Department will have to delete the negative action by reactivating the CDC program and run eligibility and certify the results as of December 30, 2012, ongoing, which the Notice of Case Action indicates as the date of the CDC closure. See Exhibit 1 and BAM 220, p. 10. The Department will recalculate benefits based on the information and dates entered in the system. BAM 220, p. 10.

CDC benefits – reported change

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (November 2012), p. 7. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p. 7. Income reporting requirements are limited to the following regarding earned income: starting or stopping employment; changing employers; change in rate of pay; and change in work hours of more than five hours per week that is expected to continue for more than one month. BAM 105, p. 7.

Claimant testified that she is seeking 80 authorized hours for CDC coverage due to her working 40 hours of week. Claimant testified that beginning on January 15, 2013, she was working an average of 35-40 hours a week, earning [REDACTED], and being paid biweekly. Claimant testified that she reported this change to both her caseworker and her supervisor before the 10 day change report requirements. See BAM 105, p. 7.

The Department testified that Claimant had only received one check showing her working 31.69 hours in a biweekly pay period end date of January 25, 2013, and a pay date of January 31, 2013. See Exhibit 1. It should be noted that the next full time hours worked based on the Department's exhibit shows it occurred on the pay period end date of February 22, 2013, and a pay date of February 28, 2013. See Exhibit 1. Moreover, the Department testified that no additional verifications regarding higher work hours were documented until the submitted redetermination on March 19, 2013. See Hearing Summary, Exhibit 1.

The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130 (May 2012), pp. 2-3. Before determining eligibility, the Department gives the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

Based on the above CDC benefits – non-cooperation with the OCS analysis, Claimant’s CDC benefits will be reinstated as of December 30, 2012, ongoing. There is an obvious discrepancy if whether Claimant was working fulltime as of January 15, 2013, ongoing. Claimant testified that she is working fulltime and the Department as information from another source saying something differently. Thus, the Department will have to send a VCL to verify Claimant’s employment information.

In summary, the Department improperly closed Claimant’s CDC benefits as of December 30, 2012, ongoing, in accordance with Department policy.

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 improperly closed Claimant’s CDC benefits as of December 30, 2012, ongoing, in accordance with Department policy.

Accordingly, the Department’s AMP FIP FAP MA SDA CDC decision is AFFIRMED **REVERSED** for the reasons stated on the record.

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

1. Begin removing Claimant’s non-cooperation status with the Office of Child Support, if applicable;
2. Begin sending Claimant a Verification Checklist to verify Claimant’s employment information;
3. Begin recalculating the CDC budget for December 30, 2012, ongoing, in accordance with Department policy;
4. Begin issuing supplements to Claimant for any CDC benefits she was eligible to receive but did not from December 30, 2012, ongoing; and
5. Begin notifying Claimant in writing of its CDC decision in accordance with Department policy.

/s/
Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 08/26/2013

Date Mailed: 08/26/2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request
If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EF/sw

cc:

