

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-48488
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Wayne (82-49)

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 August 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) case?

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 for her minor daughter, [REDACTED]
2. Claimant's AHR has legal guardianship of [REDACTED] and Claimant.
3. On May 5, 2013, the Department determined that Claimant no longer had a need for CDC benefits.
4. On May 7, 2013, the Department sent Claimant a Notice of Case Action closing her CDC case for the period from "July 1, 2012 to December 1, 2012" because she did not have a need for child day care services due to employment, education or family preservation reasons.

5. On May 15, 2013, Claimant reapplied for CDC benefits.
6. On May 17, 2013, Claimant's AHR requested a hearing disputing the Department's actions.

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.

The CDC program provides a subsidy for child care services for qualifying families when the parent/substitute parent is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703 (October 2012), p. 1.

In this case, Claimant was receiving CDC benefits on behalf of her minor daughter, [REDACTED]. The AHR, Claimant's mother, has legal guardianship of Claimant, a legally incapacitated adult, and [REDACTED] a minor. Although the May 7, 2013, Notice of Case Action presented by the Department stated that Claimant was not eligible for CDC benefits because she lacked a valid need, at the hearing, the Department explained that, because the AHR had legal guardianship of both Claimant and [REDACTED] Claimant was not eligible to receive CDC benefits for [REDACTED] and closed her case for this reason. Based on the documentation provided, it is unclear when Claimant's CDC case closed.

Department policy provides that the CDC applicant/client is the person who signs the application and who serves as primary contact with the Department. BEM 205 (December 2011), p. 1. The client must live with the child and be one of the following in relation to the child needing care: a parent of the child or a legal guardian of the child. BEM 205, p. 2. Therefore, contrary to the Department's argument, the AHR was not required to be the applicant for CDC benefits on behalf of [REDACTED]. It is noted that the AHR, as Claimant's legal guardian, could serve as Claimant's authorized representative (AR) and act on Claimant's behalf. See BAM 110 (January 2013), p. 7. It is further noted that, because the AHR, Claimant, and [REDACTED] all live together, both the AHR, as [REDACTED] legal guardian, and Claimant, as [REDACTED] biological parent, are required to establish a valid need reason for CDC benefits. See BEM 703, pp. 2-3. However,

because Claimant was eligible to apply for CDC benefits on behalf of [REDACTED] the Department did not act in accordance with Department policy when it closed her CDC case after finding that she was not eligible.

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 closed Claimant's CDC case.

Accordingly, the Department's CDC 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 from the earlier of the date of closure or the date of application;
2. Begin reprocessing Claimant's CDC eligibility in accordance with Department policy and consistent with this Hearing Decision;
3. Allow Claimant's provider to bill for CDC services provided to the child from the date of eligibility in accordance with Department policy;
4. Issue supplements to the provider for any CDC benefits the provider is eligible to receive from the date of Claimant's CDC eligibility; and
5. 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: August 6, 2013

Date Mailed: August 7, 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

ACE/pf

cc:

