

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

IN THE MATTER OF:



Reg. No.: 2014-8886
Issue No.: 6007; 3000
Case No.: [REDACTED]
Hearing Date: November 27, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 27, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly terminated Claimant's Child Development and Care (CDC) eligibility due to an alleged failure to submit proof of an eligible day care provider.

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 FAP benefit recipient.
2. On [REDACTED]/13, Claimant applied for CDC benefits.
3. On an unspecified date, Claimant submitted documents to DHS noting that her father was her selected CDC provider.
4. On an unspecified date, DHS determined that Claimant's father was not eligible to receive CDC provider payments.

5. On [REDACTED]/13, DHS denied Claimant's CDC application due to an alleged failure by Claimant to select an eligible CDC provider (see Exhibits 2-4).
6. DHS conceded that an error was made in determining Claimant's CDC provider's eligibility.
7. On [REDACTED]/13, DHS mailed Claimant a Notice of Potential Food Assistance (FAP) closure.
8. On [REDACTED]/13, Claimant requested a hearing to dispute an anticipated FAP benefit termination and CDC application denial.
9. On [REDACTED]/13, DHS initiated termination of Claimant's FAP eligibility, effective [REDACTED]/2013, due to an alleged failure by Claimant to submit a Semi-Annual Contact Report (SACR).
10. DHS conceded that the FAP benefit termination was improper because Claimant timely submitted a SACR.
11. On an unspecified subsequent date, DHS processed Claimant's FAP eligibility beginning [REDACTED]/2013.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP benefit termination to be effective [REDACTED]/2013. It was not disputed that DHS improperly initiated termination of Claimant's FAP eligibility. It was also not disputed that DHS reinstated Claimant's FAP eligibility and processed FAP benefits for Claimant beginning [REDACTED]/2013. Because DHS changed its action and processed Claimant's FAP eligibility, there is no longer a dispute concerning Claimant's FAP eligibility, at least not concerning an alleged Claimant failure to submit an SACR.

Claimant testified that she was dissatisfied with the amount of FAP benefits issued by DHS. Claimant's dissatisfaction may be addressed if Claimant separately requests a hearing. Claimant's original hearing request only disputed a FAP benefit termination; the request did not (and could not) raise a dispute concerning the amount of FAP benefits. During the hearing, Claimant was advised to again request a hearing.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a CDC application denial. It was not disputed that DHS denied Claimant's application due to an alleged failure by Claimant to select a provider who was eligible to receive CDC provider payments. To be eligible for CDC payments, a client must use an eligible provider. BEM 703 (7/2013), pp. 13-14.

The DHS specialist participating in the hearing testified that a background check was performed on Claimant's selected CDC provider. The specialist also conceded that DHS probably made errors in determining Claimant's provider's eligibility. For example, the specialist thought that DHS may have erroneously checked the wrong first name in a criminal background check. DHS also conceded that Claimant's selected provider recently received CDC payments; the specialist thought it was improbable that the provider would be ineligible to receive CDC provider payments a few weeks after being eligible. DHS also presented no evidence to justify the denial of CDC provider payments.

Based on the presented evidence, DHS failed to verify that Claimant's selected CDC provider was rightly denied provider eligibility. Accordingly, the subsequent CDC application denial was improper.

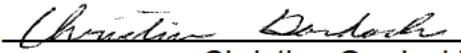
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS voluntarily reversed the termination of Claimant's FAP eligibility to be effective [REDACTED]/2013. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for CDC benefits. It is ordered that DHS perform the following actions:

- (1) re-register Claimant's CDC application dated [REDACTED]/13;
- (2) process Claimant's CDC application subject to the finding that DHS erroneously determined Claimant's CDC provider's eligibility; and
- (3) initiate a supplement of any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/6/2013

Date Mailed: 12/6/2013

NOTICE OF APPEAL: 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.

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).

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

CG/hw

cc:

