

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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.

Additionally, at the hearing, Claimant testified that she now understood the Department's actions concerning her MA case and wanted to withdraw her request for hearing concerning that matter. The Department agreed to the withdrawal. Accordingly, Claimant's request for hearing concerning her MA case is dismissed. The hearing proceeded to address the denial of Claimant's CDC application.

The CDC program may provide a subsidy for child care services for qualifying families when the parent is unavailable to provide the child care because of a need permitted under Department policy **and** care is provided by an eligible provider. BEM 703 (July 2013), p. 1. An acceptable need is family preservation, high school completion, an approved activity, or employment. BEM 703 (July 2013), pp. 1, 4.

In this case, Claimant indicated that she was employed as a daycare provider in her home between 8:00 a.m. and 5:00 p.m. and requested CDC benefits for the period between 7:00 a.m. and 8:00 a.m. At the hearing, Claimant explained that her child began school at 7:55 a.m. and she needed CDC benefits so that she could drop her child off at the latchkey program at her school and be at her home in time for her clients to drop off their children. Based on the fact presented, Claimant established a need for CDC benefits based on employment.

The Department argued that CDC benefits were properly denied because Claimant was seeking benefits for periods outside her work hours. To verify need based on employment, the client must provide proof of the number of work hours. BEM 703, pp. 12-13. In determining a client's need hours, the Department considers the time spent in the activity and meal periods during the work day. BEM 710 (July 2013), p. 1. The

worker must round the biweekly figure up to the next whole hour if it includes a fraction and enter the figure into the Department's system which will adjust and authorize to the correct 20 hours, 40 hours, 60 hours, or 80 hours. BEM 710, p. 1.

In this case, Claimant indicated in her application that she was employed Monday through Friday from 8:00 a.m. to 5:00 p.m. Thus, Claimant established need hours totaling 9 hours daily or 90 hours biweekly. Thus, Claimant was eligible for CDC benefits up to 80 hours, if otherwise qualified. The fact that Claimant was seeking CDC benefits for only up to an hour a day and for hours that were before her starting work hours may limit the actual number of CDC hours billed to the Department but does not affect the fact that she established a need, and need hours, based on employment.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's CDC application.

DECISION AND ORDER

Based on Claimant's withdrawal of her September 3, 2013 hearing request concerning her MA deductible, the MA deductible issue is DISMISSED

The Department's CDC decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's August 11, 2013, CDC application;
2. Reprocess the application;
3. Provide Claimant with CDC benefits she is eligible to receive, if any, from August 11, 2013, in accordance with Department policy.



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

Date Signed: December 19, 2013

Date Mailed: December 19, 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

ACE/pf

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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