

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

IN THE MATTER OF:



Reg. No.: 2014-31699
Issue No(s): 2000;6001
Case No.: [REDACTED]
Hearing Date: April 9, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 April 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her brother/CDC Provider, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], JET Worker/Family Independence Specialist.

ISSUE

Did the Department properly process Claimant's Medical Assistance (MA) and Child Development and Care (CDC) benefits?

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 MA and CDC benefits.
2. On June 11, 2013, an administrative hearing was held with respect to Claimant's CDC benefits.
3. The Hearing Decision from the hearing held on June 11, 2013, found that the Department did not act in accordance with Department policy with respect to Claimant's application for CDC and ordered the Department to initiate certain actions with respect to Claimant's CDC benefits. (Exhibit A)

4. On September 12, 2013, the Department sent Claimant a Notice of Case Action informing her that effective October 1, 2013, her MA case would be closed. (Exhibit 1)
5. On March 10, 2014, Claimant submitted a hearing request disputing the Department's actions with respect to her CDC and MA benefits.

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).

MA

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.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 2014), p. 6, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

In the present case, on September 12, 2013, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to close her MA case, effective October 1, 2013. (Exhibit 1). Claimant did not file a request for hearing to contest the Department's

action until March 10, 2014. Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 6. Claimant was informed that she was entitled to submit a new application for MA benefits and have her eligibility determined.

CDC

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, Claimant requested a hearing regarding the Department's failure to comply with a previous administrative hearing decision with respect to her CDC benefits. The Hearing Decision from the June 11, 2013, hearing orders the Department to: (i) Initiate a reopening, reprocessing and recertification of Claimant's September 2012 CDC application; (ii) Request a remedy ticket or, if already done, prioritize any DTMB remedy tickets that are pending regarding Claimant's CDC case; and (iii) Provide Claimant with retroactive and/or supplemental CDC benefits required under applicable policy. (Exhibit A).

According to BAM 600, the Department is to implement and certify a decision and order within 10 calendar days of the mailing date on the hearing decision. BAM 600, pp. 42-43. At the hearing, the Department testified that on June 19, 2013, it certified the decision and order. The Department presented a program request summaries in support of its testimony, however, a review of these documents reveals that none of the applications listed have September 2012 as the application date or the application's potential eligibility begin date. (Exhibit 2). Therefore, it remained unclear whether Claimant's September 2012 application was reopened, reprocessed and recertified in accordance with the decision and order.

With respect to Claimant's retroactive and/or supplemental CDC benefits, the Department stated that Claimant and her CDC provider were issued CDC benefits for the period in question. The Department provided benefit summary inquiry for Claimant's CDC provider and CDC benefit details documents to show that benefits were issued for four children in the amount of \$108, for each child for each pay period from September 9, 2012, through November 3, 2012. For the period November 4, 2012, through January 26, 2013, Claimant and her CDC provider were issued CDC benefits in the amount of \$54, each pay period for one of Claimant's children. (Exhibit 3).

Claimant argued that she never received any communications from the Department after the hearing concerning her CDC benefits and that although her provider was paid for certain periods, those CDC payments were made prior to her hearing in June 2013, that they stopped in January 2013, and that the payments received did not cover child

care for all four of her children. Claimant asserted that pursuant to the Hearing Decision, she should have been provided with supplemental CDC benefits from the application date of September 2012, ongoing through the hearing date of June 2013. The Department acknowledged that the payments made to Claimant appear to have been issued prior to the hearing. The Department remained unable to explain if Claimant was issued any supplemental CDC benefits after the hearing in June 2013, or whether Claimant was issued the correct amount of CDC benefits based on her need and group size. The Department did not present sufficient evidence to refute Claimant's testimony, as the case worker representing the Department at the hearing was new to Claimant's case and was not the case worker who took the action.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's CDC benefits.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to MA is DISMISSED and 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. Initiate a reopening, reprocessing and recertification of Claimant's September 2012 CDC application;
2. Request a remedy ticket or, if already done, prioritize any DTMB remedy tickets that are pending regarding Claimant's CDC case; and
3. Provide Claimant with retroactive and/or supplemental CDC benefits required under applicable policy.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 28, 2014

Date Mailed: April 28, 2014

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

ZB/tlf

cc:

