

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

IN THE MATTER OF:

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██████████████████
██████████████████

Reg. No.: 14-007953
Issue Nos.: 6001, 6003
Case No.: ██████████
Hearing Date: October 9, 2014
County: Wayne (31-Grandmont)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
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ISSUES

1. Did the Department properly close Claimant's Child Development and Care (CDC) case effective May 31, 2014?
2. Did the Department properly calculate Claimant's CDC need hours at 40 biweekly for June 29, 2014, 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 whose CDC case closed effective May 31, 2014.
2. On June 17, 2014, Claimant reapplied for CDC benefits.
3. On July 2, 2014, the Department sent Claimant a Notice of Case Action approving her CDC application for June 29, 2014, ongoing for 40 authorized hours biweekly.

4. On July 10, 2014, Claimant filed a request for hearing alleging that the Department failed to pay her CDC provider for the first three weeks in June and that her authorized need hours were insufficient.

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 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 raised two issues in her request for hearing: (i) the Department's failure to pay her CDC benefits for the first three weeks in June and (ii) the authorization for only 40 biweekly CDC hours.

Closure of CDC Case

The Department testified that it believed that it closed Claimant's CDC case effective May 31, 2014, because she failed to submit requested verifications but was unsure. Claimant testified that she was informed that her case closed because she failed to return a completed redetermination but contended that she never received a redetermination concerning her CDC case. Because the Department did not present any evidence concerning the closure of Claimant's CDC case, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the case.

CDC Authorized Hours

The Department must determine CDC need hours at application, redetermination, and when a change in work or activity hours is reported. BEM 710 (April 2014), p. 1. In this case, the Department requested that Claimant submit verifications of employment in connection with a new CDC application she submitted on June 17, 2014. There was also evidence presented at the hearing that there were changes in Claimant's employment at the time her case closed. Therefore, the Department properly requested verifications to establish Claimant's CDC need hours.

In response to the Department's request, Claimant submitted the following: (i) a verification of employment from [REDACTED] dated June 18, 2014, showing that Claimant's hours varied by event and that she had last received a paycheck on March

28, 2014; (ii) a verification of employment from [REDACTED] dated June 23, 2014, showing that Claimant's hours expected to work "varies tbd" and that she would receive her first paycheck on June 26, 2014; and (iii) a letter from a [REDACTED] dated June 11, 2014, which stated that Claimant provided services to her at \$8 per hour and got paid \$80 per week.

The Department testified that, in calculating Claimant's CDC need hours, it relied solely on the letter from [REDACTED] concerning Claimant's self-employment providing assistance. Although the handwriting on the letter was unclear with respect to the daily hours Claimant worked, whether 2 or 4 hours, and Claimant contended that she worked 4 to 6 hours daily, Claimant's pay of \$80 weekly at \$8 hourly would result in 10 hours of weekly employment. Therefore, Claimant's employment with [REDACTED] supported 20 biweekly need hours.

Even though the Department approved Claimant for biweekly need hours of 40, more than the hours supported by the employment with [REDACTED], Claimant contends that she needed more than 40 biweekly need hours for all her employment. The Department testified that it did not consider the [REDACTED] employment because there was no indication that Claimant had any ongoing hours or the [REDACTED] employment because there were no specified hours of employment. At the hearing, Claimant explained that her work with [REDACTED] was seasonal and she expected greater hours in the summer. She testified that she provided the Department with a schedule of future events she was required to work for [REDACTED]. The Department denied receiving such a schedule but acknowledged that Claimant's employment with [REDACTED] appeared to be as a temporary agency employee, hired as the employer's needs arise. In fact, the verifications of employment from both [REDACTED] and from [REDACTED] put the Department on notice of Claimant's ongoing employment. In the [REDACTED] verification, Claimant is identified as employed, with hours varying by event, and in the [REDACTED] verification, Claimant is identified as a new employee. The Department acknowledged that it made no collateral contact with either employer. Department policy recognizes that a collateral contact may be necessary when documentation is not available or when available evidence needs clarification. BAM 130 (July 2014), p. 2.

Under the evidence presented, where Claimant's verifications of employment with [REDACTED] and [REDACTED] showed ongoing employment, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it excluded both employers in calculating Claimant's CDC need hours.

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 (i) closed Claimant's CDC case and (ii) calculated her CDC need hours.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate Claimant's CDC case effective June 1, 2014;
2. Recalculate Claimant's CDC need hours for June 1, 2014, ongoing;
3. Issue supplements to Claimant's CDC provider for CDC benefits Claimant is eligible to receive but did not from June 1, 2014, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: **10/14/2014**

Date Mailed: **10/15/2014**

ACE / pf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]