

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013213
Issue No.: 6002
Case No.: [REDACTED]
Hearing Date: November 12, 2014
County: Allegan

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in person hearing was held on November 12, 2014, from Allegan, Michigan. Participants on behalf of Claimant included claimant and her parents, [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist acting as Hearings Facilitator and [REDACTED], Payment Supervisor.

ISSUE

Did the Department properly cancel claimant's Child Development and Care (CDC) benefits case based upon its determination that claimant failed to provide verification information in a timely manner?

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 CDC benefit recipient based upon her employment.
2. In March 2014, claimant was diagnosed with a virulent form of breast cancer.
3. On March 26, 2014, the Ottawa County DHS approved claimant for CDC authorization from December 15, 2013, forward for one child and from March 9, 2014 forward for a second child.
4. On April 3, 2014, claimant's case was transferred to Allegan County.

5. On April 21, 2014, claimant contacted the Allegan County caseworker stating that her employment was ending.
6. On April 21, 2014, a DHS 38 verification of employment form was mailed to claimant with a due date of May 1, 2014.
7. On April 29, 2014, a DHS 3503 verification checklist was mailed re-requesting verification of income/stopped employment, due back on May 9, 2014.
8. On May 20, 2014, per claimant's request, a DHS 4575 child care family preservation form was mailed to her with a due date of May 30, 2014.
9. On May 30, 2014, the Department received proof of stopped employment.
10. On June 16, 2014, a redetermination for Medical Assistance, CDC and Food Assistance Program was sent out to claimant with a July 1, 2014, interview date.
11. The Department office did not conduct a scheduled interview because the redetermination paperwork was not returned.
12. On July 9, 2014, the redetermination packet was received and claimant was contacted for interview.
13. On July 9, 2014, the redetermination was processed and a DHS 1605 Notice of Case Action was mailed to her letting her know that her CDC was ending for having 'no need' reason.
14. On August 5, 2014, claimant, her mother and a supervisor held a telephone conference where it was explained to claimant that the office had not received the required CDC needed paperwork which was due May 30, 2014.
15. On August 26, 2014, the Department caseworker received a note stating that claimant had come to the office with paperwork and wanted the new fax number.
16. On August 27, 2014, at 11:52 AM the supervisor contacted claimant and provided her with the supervisor's email address and new fax number.
17. In September 2014, claimant's mother was dropped as a child care provider from the system because no action has been taken since April 2014.
18. On September 30, 2014, claimant submitted documents that she stated were faxed to the Department of May 30, 2014.
19. On September 30, 2014, the department reviewed the documents and found that the second page of the DHS 4575 was not completed and cannot be used to verify CDC need.

20. On October 1, 2014, claimant filed a request for a hearing stating: "I have cancer and informed my caseworker in March and asked for help. I submitted all my forms for assistance in May proof that which I have a log for. I have talked to her supervisor and manager and in this time not only have I had to reapply for assistance with child care due to it being closed but my mom has had to recertify as a provider and nothing has been resolved".

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 regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

Claimant argues that she FAXED copies of her documents in to the department on May 30, 2014, and that she attempted to provide completed documentation to the department in a timely fashion. Claimant argues that she is not responsible for her prior employer's failure to provide documentation of her job ending. She is also not responsible for that medical doctor's failure to sign the family preservation paperwork. Claimant's mother wants to be paid for caring for her grandchildren and for medical transportation for claimant because claimant's illness is creating an undue hardship.

DHS argues that claimant was originally approved for CDC benefits based upon her employment in Ottawa County. Once claimant's employment ended, she was required to perform a redetermination for CDC benefit eligibility. Claimant was given several opportunities to provide appropriate documentation for CDC eligibility based upon family preservation reasons but did not provide the completed documents to DHS at any time relevant to this hearing. The documents provided to the Department on September 30, 2014 were still incomplete and that the second page of the DHS 4575 form was not completed and cannot be used to verify the CDC need reason.

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.

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families.

The CDC program may provide a subsidy for child care services for qualifying families when the parent/substitute parent (P/SP) 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.

Eligibility for CDC services exists when the department has established **all** of the following:

- There is a **signed application** requesting CDC services.
- Each P/SP; is a member of a valid **ELIGIBILITY GROUP**; see Parent/Substitute Parent section in this item.
- Each P/SP meets the **NEED** criteria as outlined in this item.
- An eligible provider is providing the care.
- All eligibility requirements are met. BEM 703, page 1

There are four valid CDC need reasons. Each P/SP of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each P/SP is unavailable to provide the care because of:

1. Family preservation.
2. High school completion.
3. An approved activity.
4. Employment. BEM 703, page 4.

CDC Payments may be approved for P/SPs who are:

- Unavailable to provide care because they are participating in a court-ordered activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another member

of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home.

- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an employment or educational need that is part of the protective services/foster care services case plan.

Child care for this need reason cannot be authorized for **ongoing** 24-hour care. The family preservation need is based on the P/SP's need, not the child's need.

Allowable conditions may include, but are not limited to the following:

- Disability or mental disturbance.
- Chronic health conditions.
- Drug/alcohol abuse.
- Social isolation.
- Domestic Violence.
- History of child abuse/neglect in family or poor, inadequate parenting.

Allowable treatment activities may include, but are not limited to the following:

- Hospitalization.
- Physical therapy.
- Occupational therapy.
- Speech therapy.
- Counseling sessions.
- Alcoholics Anonymous (AA) meetings.
- Narcotics Anonymous (NA) meetings.
- Parenting classes.
- Support classes.
- Food and nutrition classes.
- Court-ordered community service.
- Money management classes. BEM 703, pages 5-6.

The DHS-4575, Child Care Family Preservation Need Verification, must be used to document the family preservation child care need. The form must be signed by one of the following:

- A physician (M.D. or D.O.).
- The DHS children's protective services, foster care services, or preventive services worker if child care is

needed to allow a parent/substitute parent to participate in a treatment activity as a component of an active children's protective services, foster care services or preventive services case plan.

- A clinical psychologist.
- A clinical social worker.
- The clinical supervisor or director of a substance abuse treatment program.
- A substance abuse counselor.
- The specialist, if it is a DHS-assigned family support services (FSS) activity. BEM, 703, page 7

The DHS-4575 must be completed:

- At application.
- At redetermination.
- When there is a change in the parent/substitute parent's treatment schedule, activities or service plan.

The DHS-4575 verifies:

- The reason CDC services are needed (diagnosis of condition or explanation of activity which prevents the P/SP from providing the care).
- The activities in which the P/SP is expected to participate while the child is receiving CDC services.
- How often the P/SP is being treated/seen.
- The length of time CDC services will likely be required.
- The days per week and number of hours per day that child care will be needed.
- The child(ren) needing child care. BEM 703, pages 7-8.

The client is responsible for obtaining any requested verifications needed to determine eligibility. Use the DHS 3503, Verification Checklist, to inform the client of what verifications are needed at application and the determination. You may also choose to use the format case changes. A copy of all verifications must be included in the case record. The client is allowed a full 10 calendar days from the date verification is

requested (the date of request is not counted) to provide the requested information. If requested, at least one extension must be given if the client cannot provide the verification despite a reasonable effort. For active cases, Bridges will allow timely notice if verifications are not returned. BEM 702, page 1.

In this case, original verification information was due May 1, 2014. The department did properly provide claimant with an extension. The department did not receive verification of information which established family preservation need by May 30, 2014. The department did not receive the verification information which established family preservation need five a June 1, 2014 interview date for redetermination. The department did not receive documents supporting family preservation need until September 30, 2014. Once those documents are received, it was determined that the DHS 4575 four was not completed and can be used to verify the CDC need reason.

In the instant case, claimant and her witness testified on the record that claimant turned in verification information via FAX on May 30, 2014. Claimant did provide a copy of her confirmation of FAX transmission which indicated that on May 30, 2014 at 10:39 AM nine pages of material were faxed to #269 – 673 – 7705 and the result was okay. At 10:45 AM one page was faxed to #616 – 396 – 8930, Department Exhibit 17. The department caseworker indicated that those documents were not received. In addition, claimant cannot be held responsible for the fact that her prior employer failed to provide verification of employment termination in a timely manner. Moreover, claimant cannot be held responsible for the fact that her medical doctor failed to provide verification of family preservation need based upon a claimant's illness in a timely manner.

The Administrative Law Judge determines that claimant has provided sufficient evidence on the record to show that she did FAX to the Allegan County DHS office 10 pages of documents on May 30, 2014. Claimant has established that she did attempt to provide verification information in a timely manner, Department Exhibit 17. The FAX communication confirmation indicates that the documents were transmitted properly. Moreover, the fact that her employer and her doctor did not return the documents in a timely manner is good cause for her failure to timely provide verification information. 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 cancel claimant CDC benefits based upon its determination that claimant failed to provide verification information in a timely manner.

DECISION AND ORDER

Accordingly, the Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it cancelled claimant's CDC benefits case based upon its determination that claimant failed to provide verification information in a timely manner. The Department also failed to act in compliance with Department policy when it denied claimant CDC case for lack of need.

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 application for CDC benefits based upon family need preservation to the date of closure.
2. Allow claimant 30 days from the **receipt** of this Decision and Order to provide any information that the Department determines is lacking in her case.
3. Provide claimant written notice of any documents which she is currently lacking.
4. Assist claimant in gathering information which she is unable to obtain in accordance with Department policy.
5. Reevaluate claimant's CDC case once the information is received, and if claimant is otherwise eligible, pay to claimant CDC benefits which she is eligible to receive in accordance with Department policy.



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/20/2014

Date Mailed: 11/21/2014

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 48909-8139

LYL/sw

cc:

