

**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.: 2014-14674
Issue No.: 6001
Case No.: ██████████
Hearing Date: February 3, 2014
County: Oakland (63-03)

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 February 3, 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 due to excess income?
2. Did the Department properly refuse to pay Claimant's provider for CDC services between November 2, 2013 and December 1, 2013?

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.
2. When the Department became aware that it had improperly designated Claimant's 13-year old daughter's Retirement, Survivors and Disability Income (RSDI) income as Supplemental Security Income (SSI), it recalculated Claimant's CDC eligibility.

3. On November 13, 2013, the Department sent Claimant a Notice of Case Action notifying her that, effective December 1, 2013, her CDC case for her 18-month-old daughter would close.
4. On November 21, 2013, Claimant filed a request for hearing disputing the Department's actions.

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 requested a hearing concerning the closure of her CDC case for her infant daughter. During the course of the hearing, she testified that she was also concerned that the Department had failed to pay her provider for CDC services for the infant after November 2, 2013.

The Department testified that Claimant's CDC case was closed because her income exceeded the limit applicable to her CDC group. The Department provided a November 21, 2013, Notice of Case Action into evidence to support its position. However, a review of the Notice shows that it concerned Claimant's 13-year-old daughter who was not receiving day care services. During the hearing, Claimant produced a copy of the November 13, 2013, Notice of Case Action, which was tied to her November 21, 2013 hearing request, that showed that the Department was closing CDC benefits for her 18-month-old daughter effective December 1, 2013. While the first page of the Notice, in the comments from the specialist section, indicates that verifications were not provided, the Department contended at the hearing that the CDC case closed because of income ineligibility and presented no testimony or evidence concerning Claimant's failure to verify. To the extent the Department relied on a failure to verify to close Claimant's CDC case, the Department had failed to satisfy its burden of showing that it acted in accordance with Department policy in closing the CDC case on that basis. Although the second page of the Notice, that contains the reason for the intended action for closure of the CDC case, is not included with the November 13, 2013, Notice of Case Action provided into evidence, this Hearing Decision addresses the Department closure of Claimant's CDC case due to income ineligibility, consistent with its testimony on the record.

In determining Claimant's income eligibility for CDC benefits, the Department considered a CDC group size of three and included Claimant's 13-year-old daughter's RSDI income as well as Claimant's employment income. Claimant did not dispute her employment income calculation. Rather, she contended that her 13-year-old's RSDI income should not be considered in assessing her income eligibility for CDC benefits for her 18-month-old daughter.

Groups who are not categorically eligible for CDC benefits (based on protective services, foster care or FIP/EFIP-related situations) may be eligible for CDC if they pass the income eligibility test. BEM 703 (July 2013), pp. 14-16. To determine CDC income eligibility, the income of all CDC program group members must be considered. BEM 525 (July 2013), p. 1. The CDC group contains the following persons who live together: (i) each child for whom care is requested, (ii) each child's legal and/or biological parent(s) or stepparent, (iii) each child's unmarried, under age 18, sibling(s), stepsibling(s), or half-sibling(s), (iv) the parent(s) or stepparent of any of the above sibling(s), and (v) any other unmarried child(ren) under age 18 whose parent, stepparent or legal guardian is a member of the program group. BEM 205 (July 2013), pp. 1-2.

In this case, Claimant lived with her 18-month-old daughter and her 13-year-old daughter. CDC benefits were requested for the 18-month-old daughter. Claimant's 13-year-old daughter, as a sibling under age 18 living with her sister and mother, was a member of the CDC group. Therefore, the Department acted in accordance with Department policy when it concluded that Claimant's CDC group had three members (Claimant, her 18-month-old daughter and her 13-year-old daughter) and considered the income of all three group members.

Claimant did not dispute that her 13-year-old daughter received monthly RSDI benefits totaling \$1,050 before January 1, 2014. Except for certain instances not applicable in this case, gross RSDI benefits are counted as unearned income. BEM 503 (July 2013), p. 28. Because Claimant's gross monthly income from employment and her daughter's gross monthly RSDI income totaled more than \$1,990, which is the gross monthly income limit for a CDC group size of three, the Department acted in accordance with Department policy when it concluded that Claimant was income-ineligible for CDC benefits. See RFT 270 (December 2013), p. 1.

At the hearing, Claimant also expressed concerns about the Department's failure to pay her provider after November 2, 2013. Eligibility for CDC for income-eligible clients ends when the group has excess income. BEM 703 (July 2013), pp. 16-17. A DHS-198 is generated by the Department's system when an automated eligibility determination in which a CDC closure or reduction in benefits is certified and a CDC provider has been identified by the client. BAM 220 (July 2020), p. 21. Case actions to close a CDC eligibility determination group are not pended. BAM 220, p. 9. However, a client is entitled to timely notice of a CDC case closure based on income ineligibility. See BAM 220, pp. 2-5.

In this case, on November 21, 2013, the Department notified Claimant in a DHS-198 that both her 18-month-old and her 13-year-old were eligible for CDC benefits through November 2, 2013. However, in the November 13, 2013 Notice of Case Action, the Department notified Claimant that the CDC case for her 18-month-old was closing effective December 1, 2013. Claimant's request for hearing was tied to that Notice. Because the Department notified Claimant that her CDC case was closing effective December 1, 2013, the Department did not act in accordance with Department policy when it failed to pay the provider for CDC services provided after November 2, 2013, and before December 1, 2013.

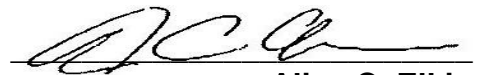
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's CDC case effective December 1, 2013, but did not act in accordance with Department policy when it failed to pay Claimant's CDC provider for services between November 2, 2013, and December 1, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's CDC case and REVERSED IN PART with respect to failure to pay Claimant's provider for CDC services provided between November 2, 2013, and December 1, 2013.

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. Allow Claimant's provider to bill for CDC services provided on Claimant's behalf between November 2, 2013, and December 1, 2013;
2. Pay Claimant's provider for CDC benefits Claimant was eligible to receive during this period.



Alice C. Elkin

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

Date Signed: February 5, 2014

Date Mailed: February 5, 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

ACE/pf

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