

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20144394
Issue No(s): [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 17, 2013
County: Oakland

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 December 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly issue payment of Claimant's 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 a recipient of CDC benefits for her two children.
2. In September of 2013, Claimant submitted a redetermination to the Department and it was determined that Claimant was no longer eligible for CDC benefits as her income exceeded the allowable limit.
3. On September 25, 2013, the Department sent Claimant a notice of case action (DHS 1605) stating that her CDC benefits would be closing effective October 20, 2013 ongoing.
4. The last CDC payment made by the Department was on September 26, 2013 for the period of June 30, 2013 through July 13, 2013.

5. On October 7, 2013, Claimant filed a request for hearing protesting the date of service for which the last CDC payment was made.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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 Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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 9858g; 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 State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, Claimant testified that she was not protesting the closure of her CDC benefits, rather she was protesting the dates of service for which she received CDC benefits. The information provided by the Department (see Respondents Exhibit 5) shows that the last payment for CDC benefits was made on September 26, 2013 for the period of June 30, 2013 through July 13, 2013. The Department additionally provided information showing that two Child Development and Care Client Certificate/Notice of Authorization forms were mailed to Claimant. One form indicates that for one of Claimant's children, the authorization is from October 7, 2012 through June 15, 2013. This form was sent to Claimant on June 5, 2013, but this form is in relation to a different day care center than what is on the subsequent form and on the payment history provided by the Department. The second Child Development and Care Client Certificate/Notice of Authorization shows authorization up to July 13, 2013, but this form was sent to Claimant on September 25, 2013.

Policy requires the Department to provide notice to claimants when action is taken regarding their benefits. Policy states as follows:

NOTICE OF CASE ACTIONS

All Programs

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. The notice of case action is printed and mailed centrally from the consolidated print center.

For **FAP Only**, see Actions Not Requiring Notice in this item.

Exception: Written notice is **not** required to implement a hearing decision or policy hearing authority decision.

Refer to policy in BAM 600 if a client disputes a case action. There are two types of written notice: **adequate** and **timely**.

A notice of case action must specify the following:

The action(s) being taken by the department.

The reason(s) for the action.

The specific manual item which cites the legal base for an action or the regulation or law itself.

An explanation of the right to request a hearing.

The conditions under which benefits are continued if a hearing is requested.

Adequate Notice

An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). Adequate notice is given in the following circumstances:

All Programs

Approval/denial of an application.

Increase in benefits.

FIP, RCA, SDA, MA, CDC and AMP Only

A recipient or his legal guardian or authorized representative requests in writing that the case be closed.

Factual information confirms a recipient's death.

It is verified that a recipient has been approved for assistance in another state.

It is verified that an eligible child, **or in MA**, an eligible group member of any age, has been removed from the home as a result of court action.

CDC Only

The client or provider reports, orally or in writing, that a child is no longer in the care of that provider.

The client or provider reports, orally or in writing, a need for fewer authorized hours.

It is verified that a child member of the program group was voluntarily placed in foster care.

Information verifies the provider is no longer eligible to receive payments.

Timely Notice

All Programs

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. See Adequate Notice and for, CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. (BAM 220, pages 1-4, 1/1/2014).

In this case, the Department took negative action in closing Claimant's CDC benefits. Therefore, policy requires timely notice. Although the Department provided Child Development and Care Client Certificate/Notice of Authorization forms that show authorization periods, the notice of case action the Department sent to Claimant clearly states that Claimant's CDC benefits would be closing effective October 20, 2013; which would have provided Claimant with the required timely notice (see Respondent's Exhibit 1). Accordingly, Claimant should have been entitled to CDC benefits through October 20, 2013 in accordance with the notice of case action sent to Claimant. Daycare services rendered up through October 20, 2013, should therefore be eligible for payment.

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 ceased making CDC payments on behalf of Claimant for daycare services rendered prior to October 20, 2013.

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. If Claimant is otherwise eligible, the Department shall issue any CDC benefits due and owing on behalf of Claimant up to the date of October 20, 2013.



Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 01/09/2014

Date Mailed: 01/10/2014

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.

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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

CS/sw

cc:

