

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-004411
Issue No.: 6001
Case No.: [REDACTED]
Hearing Date: May 12, 2015
County: Kent (1) Franklin

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED] Family Independence Manager; [REDACTED], Eligibility Specialist; and [REDACTED] Lead Worker.

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) case based on non-cooperation with child support requirements?

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.
2. Claimant was found to be in non-cooperation with Office of Child Support (OCS) effective September 17, 2014.
3. On September 18, 2014, a Notice of Case Action was issued to Claimant stating the CDC case would close effective October 5, 2014, based on a failure to cooperate with child support requirements.
4. Claimant was found to be in cooperation with OCS effective September 30, 2014.

5. On November 5, 2014, Claimant filed a hearing request contesting the Department's action.
6. A Notice of Hearing mailed to Claimant for a February 10, 2015, hearing date was returned to the Department as not deliverable as addressed.
7. On February 11, 2015, an Order of Dismissal was issued based on Claimant's failure to appear for the February 10, 2015, hearing.
8. On March 13, 2015, Claimant filed another hearing request contesting the Department's action.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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.

In this case, Claimant's initial hearing request was filed within the 90-day timeframe allowed by BAM 600, (July 1, 2014), p. 6. However, on February 11, 2015, an Order of Dismissal was issued based on Claimant's failure to appear for the February 10, 2015, hearing. The Department acknowledged that Claimant did not attend the February 10, 2015, hearing because she did not receive the Notice of Hearing issued to her. Rather, that Notice of Hearing was returned to the Department as not deliverable as addressed. The Department stated they had no disagreement with allowing this hearing to proceed. Based on the initial hearing request being timely filed, the problem with the address utilized for mailing Claimant the Notice of Hearing for the February 10, 2015, hearing date, and the Department's agreement with allowing this hearing to proceed, it is found that there is jurisdiction to review the contested CDC case action.

Cooperation with child support requirements is a condition of eligibility for CDC. BEM 255, (January 1, 2014) p. 9.

BEM 255 further addresses removing a support disqualification:

REMOVING A SUPPORT DISQUALIFICATION

FIP, CDC Income Eligible, MA and FAP

Ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the primary worker from the CS icon or a support specialist can be reached by calling 1-866-540-0008 or 1-866-661-0005.

Bridges, will **not** restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support non-cooperation record) or support/paternity action is no longer needed. Bridges will end the non-cooperation record if any of the following exist:

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example, child leaves the group).
- For **FIP only**, the client cooperates with the requirement to return assigned support payments, or an over issuance is established and the support is certified.
- For **FIP and FAP only**, a one-month disqualification is served when conditions (mentioned above) to end the disqualification are not met prior to the negative action effective date.

FIP and CDC Income Eligible

Client must reapply for program eligibility when the above did not exist before the negative action effective date of the closure.

BEM 255 pp. 14-15, (underline added by ALJ).

Claimant was found to be in non-cooperation with OCS effective September 17, 2014. Therefore, on September 18, 2014, a Notice of Case Action was issued to Claimant stating the CDC case would close effective October 5, 2014, based on a failure to cooperate with child support requirements.

Claimant was found to be in cooperation with OCS effective September 30, 2014.

Claimant contests the closure of the CDC case because she was determined to be in compliance with child support requirements as of September 30, 2014, which was prior to the October 5, 2014, effective date of the CDC closure.

The Department asserted that Claimant did not comply within the negative action period, therefore she must reapply for CDC. However, it appears the Department based this on the date the Notice of Case Action was issued, rather than the negative action effective date of the closure. The Notice of Case Action shows that the closure of Claimant's CDC case would be effective October 5, 2014. The OCS lead worker confirmed that Claimant was put into cooperation on September 30, 2014. Accordingly, Claimant's CDC case should not have closed because OCS recorded the comply date before the October 5, 2014, negative action effective date of the CDC closure.


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 closed Claimant's CDC case based on non-cooperation with child support requirements.

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. Re-determine Claimant's eligibility for CDC retroactive to the October 5, 2014, effective date in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/27/2015**

Date Mailed: **5/27/2015**

CL/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

[REDACTED]