

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011588
Issue No.: 6001
Case No.: [REDACTED]
Hearing Date: September 03, 2015
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 September 3, 2015 from Lansing, Michigan. Claimant personally appeared and provided testimony. [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly determine Claimant's eligibility for 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 submitted an online application for CDC benefits on January 13, 2015. (Exhibit 1, pp. 7-20)
2. On the application, Claimant: (1) requested CDC benefits for her child (D.O.B. March 4, 2013); (2) listed 2 (two) adults in the household; and (3) indicated the reason for CDC for Claimant as "Approved Education/Training/Employment Preparation." (Exhibit 1, p. 6)
3. The application did not indicate any reason for CDC for the other adult. (Exhibit 1, p. 6)

4. On June 15, 2015, the Department mailed Claimant a Notice of Case Action (DHS-1605) which denied Claimant's application for CDC effective January 11, 2015 due to lack of need. (Exhibit 1, p. 5)
5. Sometime in June, 2015, Claimant reapplied for CDC benefits and the Department approved the application.
6. On June 30, 2015, the Department received Claimant's request for hearing seeking retroactive CDC benefits back to February, 2015.

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.

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. BEM 703 (11-1-2014), p. 1.

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. BEM 703, p. 1.

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, p. 1.

In order to be eligible for CDC for a given child, each parent or step-parent (P/SP) must demonstrate a valid need reason. BEM 703, p. 4. 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; or (4) employment. BEM 703, p. 4.

The Department must consider each need reason (family preservation, high school completion, approved activity, employment) separately to determine the appropriate eligibility group. More than one eligibility group and/or need reason may exist in some cases. **Example:** A P/SP may need child care while at work and also when attending school. In a two-parent household, there may be instances when both are unavailable at the same time, due to different need reasons. When there is more than one need reason, enter all applicable need reasons. Bridges will select the appropriate hierarchy when the case is certified. BEM 703, p. 5.

Here, the Claimant testified that although the Department denied her January, 2015 CDC application, she submitted a subsequent application for CDC which was granted. In this hearing, Claimant stated that she did not wish to challenge the Department's decision to deny her January, 2015 CDC application but she requested retroactive CDC benefits going back to February 19, 2015 (which is when her boyfriend began working). The Department, on the other hand, contends that Claimant's January 13, 2015 application was properly denied as Claimant's boyfriend did not indicate a need for CDC at the time. In addition, the Department contends that Claimant is not entitled to retroactive benefits.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. This case presents several issues that must be considered; however, the most salient issue concerns whether the Department is obligated to provide Claimant with retroactive CDC benefits back to February, 2015. It should be noted that the Department failed to meet the standard of promptness when it waited until June to mail Claimant a notice of case action in response to the January

CDC application.¹ Although the standard of promptness was not met, Claimant indicated that she was not challenging the Department's June, 2015 denial of her January, 2015 CDC application based on timeliness. In addition, both parties agreed that Claimant reapplied for CDC and later received these benefits.

The issue now is whether Claimant is entitled to CDC benefits going back to February, 2015. Pursuant to BAM 115, p. 26 as well as BEM 703 cited above, Claimant may not receive CDC benefits before she meets all the eligibility criteria. Here, based on Claimant's January 13, 2015, she clearly is not eligible as her boyfriend failed to provide a need reason for CDC. (See Exhibit 1, p. 6). As indicated above, BEM 703, p. 4 provides that in order to be eligible for CDC for a given child, each parent or step-parent must demonstrate a valid need reason. Because Claimant, in her January 13, 2015 CDC application, failed to include a need reason for her boyfriend, she did not meet all the eligibility criteria. The Department properly denied her CDC application for failure to indicate a need reason for both parents. Although Claimant contends that she is entitled to CDC benefits going back to February, she has failed to establish that she met all the eligibility criteria for CDC as of February 19, 2015. Because Claimant has not shown on this record that she was duly eligible for CDC between February 15, 2015 and June 12, 2015, Claimant is not entitled to retroactive CDC benefits.

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 refused to provide Claimant with retroactive CDC benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Human Services

Date Signed: **9/4/2015**

Date Mailed: **9/4/2015**

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¹ The Standard of Promptness for CDC program requires the Department certify program approval or denial of the application within 45 days. BAM 115 (1-1-2015), p. 15.

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:

