

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015332
Issue No.: 6001
Agency Case No.: [REDACTED]
Hearing Date: October 26, 2015
County: Wayne (49) Grand
River/Warren)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 October 26, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist. [REDACTED] Lead Support Specialist, Office of Child Support, (OCS) appeared as a witness for the Department.

ISSUE

Did the Department properly deny the Petitioner's Child Development and Care (CDC) case?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for CDC on June 12, 2015, and listed her son [REDACTED] as a household member and listed the child's absent father as unknown. The Department did not issue any Notice of Case Action denying the CDC application. Exhibit H.
2. The Petitioner had an ongoing CDC case but no active provider in Bridges from March 4, 2015, through May 31, 2015.

3. The Department sent the Petitioner a Notice of Case Action on May 14, 2015, but did not notify the Petitioner that her CDC case closed on that date due to noncooperation with OCS. The Notice only addressed the reduction of FAP benefits due to noncooperation with OCS. Exhibit D.
4. The OCS issued a Noncooperation Notice on May 14, 2015, finding the Petitioner in Noncooperation with OCS as regards her son [REDACTED] Exhibit A.
5. The Department issued a Notice of Case Action on May 14, 2015, reducing the Petitioner's FAP benefits and removing the Petitioner from her FAP group due to noncooperation with the OCS. Exhibit C.
6. On June 19, 2015, the Department issued a Notice of Case Action decreasing the Petitioner's FAP and advised that the Petitioner failed to cooperate with the OCS and was removed from the FAP group and failure to verify utilities. Exhibit D.
7. The OCS issued a Notice of Cooperation as of June 30, 2015, on August 31, 2015. Exhibit B.
8. On August 27, 2015, the Department issued a Child Care Client Authorization authorizing her provider for the pay period beginning August 23, 2015.
9. On August 27, 2015, the Petitioner reapplied for CDC. The Department notified the Petitioner that she was eligible for CDC effective August 23, 2015, pay period.
10. The Department certified a Provider for Petitioner as of June 4, 2015.
11. The Petitioner was deemed in noncooperation from May 14, 2015, through June 30, 2015. Exhibits A and B.
12. The Petitioner requested a hearing on August 17, 2015, protesting the Department's actions.

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, The Petitioner was found in noncooperation with OCS from May 14, 2015, through June 30, 2015. Exhibits A and B. During this period, the Petitioner was not eligible to receive CDC for any of her children due to the noncooperation Notice issued to Petitioner on May 14, 2015. Exhibits A and B. The OCS sent to the Petitioner a Notice of Noncooperation and a Notice of Cooperation. Exhibits A and B. Although the CDC case must be closed when a client is found in noncooperation, the Department did not issue a notice to the Petitioner closing the CDC case for noncooperation with OCS.

The Petitioner applied for CDC on June 12, 2015. The Department never denied the application. Exhibit H. The Department did issue two notices of Case Action on May 14, 2015, and June 19, 2015, advising the Petitioner that she was removed from her FAP group as a member due to noncooperation with OCS. Exhibits C and D. No such Notice was ever issued with regard to Petitioner's June 12, 2015, CDC application.

**Support
Disqualification
At Application**

FIP, CDC Income Eligible, MA and FAP

At application, client has 10 days to cooperate with the OCS. Bridges informs the client to contact the OCS in the verification check list (VCL). The disqualification is imposed if client fails to cooperate on or before the VCL due date when all of the following are true:

- There is a begin date of non-cooperation in the absent parent logical unit of work.
- There is **not** a subsequent comply date.
- Support/paternity action is still a factor in the child's eligibility.

Good cause has not been granted nor is a claim pending; see **Good Cause For Not Cooperating** in this item. BEM 255 (April 1, 2015), p. 12

Do all of the following at the application interview:

- Inform the applicant that the disqualification will be imposed unless a comply date is received from the support specialist.

- Encourage the applicant to cooperate with the support specialist and discuss the consequences of the non-cooperation.
- Promptly refer persons who indicate a willingness to cooperate to the primary worker from the CS icon. A support specialist can be reached at 1-866-540-0008 or 1-866-661-0005 to re-evaluate the individual's cooperation status; see **Removing a Support Disqualification** in this item. BEM 255, p. 12.

CDC Disqualification

CDC Income Eligible

Failure to cooperate without good cause results in ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255, p. 13

In this case, it was clearly established that the Department did not properly process the Petitioner's CDC application dated June 12, 2015; and although it showed as denied in the Bridges system, no Notice of closure was ever issued. The Department did not meet its burden to demonstrate that it complied with Department policy found in BEM 255 requiring a verification be sent to the applicant, which included a request to demonstrate cooperation with OCS and that the Department hold an interview with the Petitioner at application. BAM 115 (October 1, 2015) p. 1.

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 failed to process the Petitioner's CDC application dated June 12, 2015. In addition, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it received the CDC application with respect to issuing a verification and interviewing the client.

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. The Department shall reinstate the Petitioner's June 12, 2015, CDC application and process the application in accordance with Department policy.

2. The Department shall provide the Petitioner written notice of its determination with respect to the CDC application of June 12, 2015.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **11/12/2015**

LMF/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:

