

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-007053
Issue No.: 1007
Case No.: ██████████
Hearing Date: June 08, 2015
County: WAYNE-DISTRICT 57
(CONNER)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing was held on June 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Manager.

ISSUE

Did the Department properly comply with an ALJ Hearing Decision of July 19, 2010 to re-register and process the Claimant's CDC application?

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 Claimant filed a CDC application on May 8, 2009.
2. The Department failed to process the application. On July 23, 2010 Administrative Law Judge McClintic issued a Hearing Decision finding that the Claimant did provide all the verifications requested by the Department in a timely manner. The Department acknowledged receiving the verifications on May 20, 2009 for the CDC application. Judge McClintic found that the denial by the Department of the CDC application was improper and incorrect. Exhibit 1.

3. The July 23, 2010 Hearing Decision ordered the Department to reinstate the May 8, 2009 application. The order provided, "Any missed benefits shall be paid to Claimant in the form of a supplement." Exhibit 1.
4. The Department did not certify the Judge's order as required by Department policy. Thereafter in January 2013, in a Case Comment Summary note dated January 8, 2013 the Department acknowledged that the benefits from the hearing held in July 2010 were never paid: "Hearing order has not been certified. Unable to enroll provider for CDC periods being issued as a result of the hearing. Per hearing order the agency incorrectly denied clients 5/08/2009 application, the agency was ordered to determine eligibility from the 5/08/2009 application. Eligibility has been determined and supplements currently requested are for the periods associated with the 5/08/2009. Supplements are needed so that the hearing order can be certified." Exhibit 2.
5. Department Bridges system information indicates that the Claimant's provider received his first payments for the period beginning September 13, 2009 through September 26, 2009. Authorization for these payments was made by the Department on January 20, 2010.
6. Department Bridges system information records indicate that the Claimant's provider was enrolled July 13, 2009. A witness at the hearing for the Department found that the July 13, 2009 provider enrollment did not appear correct as the Department was ordered to determine eligibility as of May 8, 2009. The Department could not find the original CDC application even after requesting the file from the Department's closed file records.
7. The Claimant requested a timely hearing on May 3, 2015 requesting that the Department process the application and pay the supplements as required by the Hearing Decision of July 23, 2010.

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 Claimant seeks enforcement of a Hearing Decision and Order that the Department re-register and re-process the May 8, 2009 CDC application and supplement any missed benefits. At the hearing it was established that the Department did not certify the Hearing Decision as required by Department policy found in BAM 600 which provides:

**Implementing the
Decision and
Order
All Programs**

Some hearing decisions require implementation by the local office. Implement a decision and order within ten calendar days of the mailing date on the hearing decision. Do **not** provide a notice of case action. The D&O serves as notice of the action. BAM 600 (May 1, 2010) p. 30-31.

It is also established that the Department never appealed the Hearing Decision of July 23, 2010 and thus it is final. BAM 600, p. 32.

The Department credibly testified that as there were no problems noted regarding the provider's criminal background check and that all requested verifications were provided, based upon the record it did not appear to the Department that the Department had any basis not to supplement CDC benefits beginning May 8, 2009. During the hearing the Department representative indicated that she had made several efforts to locate the Claimant's CDC application of May 8, 2009 and was unsuccessful even after checking the closed file records which are stored off-site. In this case, it is found that the that the Department did not comply with Administrative Law Judge McClintic's Hearing Decision which ordered the Department to process the application going back to the date of the application, May 8, 2009, and supplement the Claimant for any missed benefits.

Based upon the evidence provided in the testimony of the parties, it is determined that the Department must supplement the Claimant for CDC benefits beginning May 8, 2009 through September 13, 2009 for provider payments which were never made to the Claimant's provider as ordered by the Hearing Decision of July 23, 2009.

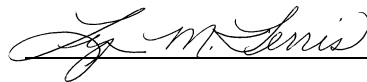
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to comply with the July 23, 2010 Hearing Decision of Administrative Law Judge McClintic, failed to certify that it complied with said Hearing Decision and Order and failed to supplement the Claimant for CDC payments beginning May 8, 2009.

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 issue supplements for CDC benefits beginning May 8, 2009 through September 13, 2009.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/11/2015**

Date Mailed: **6/11/2015**

LMF / cl

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]
[REDACTED]
[REDACTED]
[REDACTED]
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