

**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.: 15-014580
Issue No.: 2000; 3000; 6007
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 November 19, 2015, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Assistance Payment Supervisor.

ISSUE

Did the Department properly process 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. Petitioner was an ongoing recipient of CDC benefits.
2. On an unknown date, the Department closed Petitioner's CDC case.
3. On [REDACTED], Petitioner requested a hearing concerning her CDC case, as well as her Food Assistance Program (FAP) and Medicaid (MA) cases.

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).

Although Petitioner requested a hearing concerning her CDC, FAP and MA cases, at the hearing she testified that the FAP and MA issues had been resolved to her satisfaction and she no longer wished to have a hearing with respect to those cases. Therefore, Petitioner's July 24, 2015 hearing request concerning FAP and MA is dismissed. The hearing proceeded to address Petitioner's CDC issue.

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.

Although the Department indicated in its hearing summary that Petitioner had reapplied for CDC benefits on [REDACTED], or in July 2015, the Department testified at the hearing that it had reprocessed Petitioner's case and determined that she was eligible for CDC benefits from [REDACTED], ongoing. Petitioner acknowledged that her provider began receiving CDC benefits in September 2015 but contended that she was not paid for the period between [REDACTED], and July 2015.

The Department pays eligible CDC providers after the provider bills the Department biweekly for care provided. BEM 706 (July 2015), p. 3. In order to receive payment, the provider must bill the Department within 90 days after the end of the pay period being billed or 90 days after the authorization was entered by the local office. BEM 706, p. 3.

In support of its position that Petitioner's CDC provider was paid, the Department presented a Benefit Summary Inquiry (Exhibit B). Although the Department was provided the opportunity to provide additional documentation for admission into the record showing amounts paid, no other documents were provided. The Benefit Summary Inquiry shows that Petitioner's provider was paid on [REDACTED], for the pay periods from [REDACTED], and then continued to be paid ongoing for subsequently billed pay periods. However, the document did not show that the provider was paid for [REDACTED], during which period the Department acknowledged Petitioner was eligible for CDC benefits. In the absence of any evidence that the CDC provider was paid for this period or that the Department authorized the provider to bill for this period, the Department has failed to show that it acted in accordance with Department policy in processing Petitioner's CDC case.

At the hearing, Petitioner testified that she paid her CDC provider for the portion of the daycare bill the Department was supposed to pay beginning [REDACTED], and

continued to pay the Department's portion until the Department reinstated her CDC case in August 2015, and she sought reimbursement of those amounts.

CDC benefits are issued in the name of the provider and mailed to the provider except payments for unlicensed providers, which are issued to the parent. BEM 706, p. 4. The Benefit Summary Inquiry shows that Petitioner's provider is a licensed child care center (Exhibit B). Therefore, the Department can issue payments only to the provider. To the extent she seeks reimbursement for overpaid child care payments, Petitioner must address this issue with her provider.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's CDC case.

DECISION AND ORDER

Petitioner's hearing request concerning FAP and MA is **DISMISSED**.

The Department's CDC 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. Authorize Petitioner's provider to bill for CDC services provided for the pay periods from [REDACTED] 2015;
2. Issue payment to Petitioner's provider for any CDC benefits Petitioner was eligible to receive from [REDACTED].



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/25/2015**

ACE/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:

