

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

IN THE MATTER OF:

██████████
██████████
██████████████████

MAHS Reg. No.: 15-016942
Issue No.: 3000; 6001
Agency Case No.: ██████████
Hearing Date: November 05, 2015
County: Macomb-District 20

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 5, 2015, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (the Department) was represented by ██████████, back-up hearing facilitator.

ISSUE

Did the Department properly deny Petitioner's August 10, 2015 Child Development and Care (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. On August 10, 2015, Petitioner applied for CDC benefits.
2. On August 25, 2015, the Department sent Petitioner a Notice of Case Action denying the application.
3. On an unknown date, the Department sent Petitioner a Notice of Case Action notifying her that it intended to close her Food Assistance Program (FAP) case.
4. On September 17, 2015, Petitioner filed a request for hearing disputing the denial of her CDC application and the closure of her FAP case.

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).

As a preliminary matter, it is noted that Petitioner requested a hearing on September 17, 2015 concerning the denial of her CDC application and the closure of her FAP case. At the hearing, the Department acknowledged that it had improperly closed Petitioner's FAP case and presented documentary evidence (Exhibit A) showing that it had reinstated her FAP case prior to hearing and issued uninterrupted, ongoing monthly FAP benefits of \$344 through September 2015. Petitioner acknowledged receiving \$344 in monthly FAP benefits through September 2015. A September 20, 2015 Notice of Case Action showed that Petitioner's monthly FAP benefits decreased to \$260 effective October 1, 2015 (Exhibit B). Because the Department took this action *after* Petitioner had filed her September 17, 2015 request for hearing, the issue of the FAP decrease was not properly presented for hearing, and Petitioner was advised that she could request a hearing in accordance with policy if she disputed the decrease in benefits. Because the Department reinstated Petitioner's FAP case and issued uninterrupted FAP benefits, the Department resolved the issue raised in Petitioner's hearing request prior to hearing. Accordingly, the FAP issue 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 Petitioner and the Department indicated that there were two Notices of Case Action issued on August 25, 2015 denying Petitioner's August 10, 2015 CDC application, only one Notice of Case Action was provided into evidence (Exhibit 2). In the Notice, the Department stated that the application was denied because (i) the household did not meet CDC applicant requirements because the applicant was not the parent or legal guardian of any of the four listed children and (ii) one of the children was not eligible because the parent/substitute parent did not have a need for child day care services due to employment, education or family preservation reasons.

At the hearing, the Department did not dispute that Petitioner had a valid need due to employment and that she was the parent of the four minor children identified in the Notice. The Department testified that, notwithstanding the reasons listed on the Notice,

it denied Petitioner CDC benefits because Petitioner had not indicated when listing each child that she was requesting CDC benefits for that child. However, the Department acknowledged that Petitioner had indicated on the first page of her online application that she was seeking health care coverage **and** CDC benefits (Exhibit 1, p. 1). Petitioner also pointed out that she had completed the child development and care information portion of the application identifying her need for CDC and the provider name, address and phone number for each of the four children (Exhibit 1, pp. 16-17). Department policy provides that, unless it is clear from the application that the group is ineligible for CDC benefits, the Department must require a CDC applicant to participate in an interview that is intended, in part, to resolve any unclear or inconsistent information. BAM 115 (July 2015), pp. 17-18. In this case, because there are inconsistencies with respect to the request for CDC benefits in the application, the Department did not act in accordance with Department policy when it failed to contact Petitioner to confirm that program benefits being sought before denying Petitioner's application.

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 denied Petitioner's CDC application.

DECISION AND ORDER

Because the FAP issue raised in Petitioner's September 17, 2015 hearing request was resolved prior to hearing, the FAP issue 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. Reregister and reprocess Petitioner's August 10, 2015 CDC application;
2. Issue supplements to Petitioner's CDC provider for any CDC benefits Petitioner was eligible to receive from August 10, 2015 ongoing; and
3. Notify Petitioner in writing of its decision in accordance with Department policy.



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

Date Signed: **11/10/2015**

Date Mailed: **11/10/2015**

ACE / tlf

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]
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