

**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.: 15-024481
Issue No.: 6001
Agency Case No.: [REDACTED]
Hearing Date: February 25, 2016
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 February 25, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly suspended Petitioner's Child Development and Care (CDC) eligibility.

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 CDC recipient.
2. On an unspecified date before [REDACTED], Petitioner verbally reported that she was temporarily changing CDC providers.
3. Petitioner did not submit to MDHHS a Child Development and Care Provider Verification (DHS-4025).
4. On [REDACTED], Petitioner requested a hearing to dispute the failure by MDHHS to authorize her CDC provider change.

CONCLUSIONS OF LAW

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. MDHHS 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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute a failure by MDHHS to issue CDC benefits across December 2015 and January 2016. Petitioner testified she thought MDHHS did not issue CDC benefits over an approximate 4 week period (from [REDACTED] through [REDACTED]). MDHHS did not provide any documents before the hearing verifying what periods CDC benefits were not issued. MDHHS also could not verify the dates during the hearing. Based on presented evidence, it will be found that MDHHS did not authorize CDC for Petitioner over the period from [REDACTED] through [REDACTED].

Petitioner testified her daughter attended day care at a university. Petitioner testified her daughter's day care facility closes whenever the university closes. Petitioner testified that she utilizes a different day care provider for the periods when her daughter's usual day care provider is closed. Petitioner testified that whenever she had to temporarily switch CDC providers in the past, MDHHS processed the change after a telephone call reporting the change.

MDHHS responded that Petitioner may have expected a change in CDC providers based on a telephone call, but that is not proper policy. MDHHS contended that Petitioner was required to submit a document authorizing the provider change.

[Prior to authorizing CDC benefits, MDHHS is to] verify the children in care, the date care began, where care is provided and the provider's relationship to the children with the DHS-4025, Child Development and Care Provider Verification. This form must be signed by both the parent and all provider types (centers, homes, unlicensed) and is required... when there is a break in a provider's assignments... *Id.*, p. 2.

MDHHS policy supports requiring Petitioner to submit a DHS-4025 before any "break" in provider assignment. During the hearing, it was eventually not disputed that Petitioner did not submit a DHS-4025 to MDHHS. It is of no relevance that Petitioner's former specialist did not require a DHS-4025 before authorizing the change; current MDHHS policy requires submission of the form. It is found MDHHS properly did not authorize Petitioner's request for a change in CDC providers.

Petitioner is not necessarily out of luck on MDHHS authorizing her CDC provider change. Nothing prevents Petitioner from submitting a DHS-4025 authorizing CDC payments to her alternative provider from [REDACTED] through [REDACTED]. MDHHS testimony indicated such retroactive authorizations are prohibited though MDHHS policy does not appear to prohibit them. Further, if retroactive authorizations are prohibited by MDHHS policy, the prohibition may not be applicable when MDHHS fails to mail the client a document needed for authorization (it was not disputed that MDHHS did not mail Petitioner a DHS-4025). For this decision, a finding of whether MDHHS prohibits retroactive CDC authorization cannot be made because MDHHS has not officially denied Petitioner from such a retroactive CDC authorization. If MDHHS issues such a denial, Petitioner may request a hearing to dispute the action.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly failed to process Petitioner's change in CDC providers due to Petitioner's failure to submit a DHS-4025. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **MARCH 1, 2016**

Date Mailed: **MARCH 1, 2016**

CG / hw

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:

