



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
Date Mailed: August 29, 2016
MAHS Docket No.: 16-008931
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 August 1, 2016, 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 failed to comply with an administrative order concerning 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. On [REDACTED], Petitioner requested a hearing alleging MDHHS failed to issue CDC benefits in 2012, for a 6 month period, based on an administrative hearing decision.
2. On [REDACTED], and administrative hearing was held.
3. Petitioner did not present documentation of a previous administrative order.

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).

The hearing was hampered by not having the hearing request during the hearing (it was located after the hearing). Petitioner's hearing request indicated he had an authorized hearing representative. During the hearing, Petitioner never cited having a representative and the hearing was conducted accordingly.

Petitioner testimony alleged a dispute of CDC eligibility. Petitioner's testimony failed to cite which dates of CDC eligibility were disputed. The most Petitioner could state was that he disputed CDC eligibility for an approximate six month period from several years ago. Petitioner also testified the dispute was related to a previously issued administrative hearing order.

When a decision requires a case action different from the one originally proposed, a DHS-1843, Administrative Hearing Order Certification, is sent with the hearing decision. BAM 600 (October 2015), p. 42. [MDHHS is to] complete the necessary case actions within 10 calendar days of the mailing date noted on the hearing decision. *Id.* [MDHHS is to] complete and mail the DHS-1843 to MAHS to certify implementation and place a copy of the form in the case file. *Id.*

MDHHS presented a Hearing Decision (Exhibit 1, pp. 1-4) from a hearing dated [REDACTED]. The decision ordered MDHHS to redetermine Petitioner's CDC eligibility from [REDACTED], and ongoing.

Petitioner alleged the presented administrative order was not the one supporting his entitlement to CDC benefits. Petitioner also alleged his CDC eligibility was disputed from back to 2012.

Petitioner did not present the administrative order which supposedly verified his entitlement to CDC benefits. MDHHS was unaware of such an order.

Petitioner's presentation of evidence was insufficient to establish any failure by MDHHS to comply with an administrative order. Based on presented evidence, it is found MDHHS properly did not issue CDC benefits to Petitioner for an unspecified time in 2012. Thus, the actions of MDHHS will be affirmed.

Consideration was given to making the order affirming MDHHS inaction to be without prejudice. Such an order would allow Petitioner to resubmit his allegation at any time without being barred due to the dispute already being addressed. Ultimately, it is determined that Petitioner should not be given such an allowance. Petitioner has already had 4 years to verify and prepare for his claim; an unlimited amount of further time is not appropriate. Petitioner can use his period of appeal to verify his claim, however, this decision should be considered to be "with prejudice", thereby preventing Petitioner from pursuing this issue at any time outside of the appeal process of this decision.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to establish that MDHHS properly did not issue CDC benefits to Petitioner for an unspecified time period in 2012. The actions taken by MDHHS are **AFFIRMED**.

CG/hw



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

DHHS

[REDACTED]

[REDACTED]

Counsel for Petitioner

[REDACTED]

Petitioner

[REDACTED]