



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 2, 2016
MAHS Docket No.: 16-009849
Agency No.: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 22, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Child Development and Care (CDC) and Food Assistance Program (FAP) benefits?

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 FAP and CDC benefits.
2. On [REDACTED], Petitioner gave birth to Child A.
3. On May 16, 2016, Petitioner submitted a change report to inform the Department of the birth of Child A.
4. On June 20, 2016, the Department received a completed redetermination on which Petitioner requested CDC benefits for Child A.

5. On July 12, 2016, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and CDC benefits.

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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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, Petitioner clarified at the hearing that at issue was the effective date of CDC and FAP eligibility for Child A, born on May 11, 2016, as she stated the other issues with her CDC and FAP cases had been corrected.

With respect to the CDC case, Petitioner testified and the Department confirmed that Petitioner received CDC benefits and the CDC provider was paid for services on behalf of Child A effective July 24, 2016. Petitioner asserted that she timely reported the birth of her child and requested that the child be added to her ongoing CDC case. Petitioner stated that she contacted her Department case worker via telephone on May 20, 2016, and added notes for her case worker to view online through Petitioner's MyBridges account. The Department confirmed receiving a change report on May 16, 2016, which reported the child's birth, however, the Department maintained that Petitioner did not actually request that Child A receive CDC benefits until June 20, 2016, upon completion of a redetermination for one of Petitioner's other benefit cases. Petitioner maintained that she began taking Child A to the CDC provider on May 23, 2016, and stated that the period at issue for missed CDC benefits was May 23, 2016, to July 23, 2016, the time during which the CDC provider was not paid.

Department policy indicates that CDC clients are required to report changes in group composition with 10 calendar days. BAM 220 (April 2016), pp. 1-2. For CDC member adds, when a client reports a new person in the home, the Department is to determine what, if any, actions must be taken. For new members who are mandatory certified group members, the Department is to enter the minimum information which includes care arrangement, among other information as required. BAM 220, p. 14. In this case, the Department stated that after receiving the change report on May 16, 2016, it did not send Petitioner a CDC Provider Verification form to verify Child A's care arrangement. It was established that no action was taken by the Department with respect to Child A's CDC coverage until July 24, 2016.

Additionally, because Petitioner timely reported the change, and the change is to result in a positive action, the Department is to use the day the change occurred or is expected to occur as the positive action date. Department policy also notes that for a new or changed authorization to take effect on the positive action date, the Department is to begin it the first day of the CDC period that contains the positive action date. BAM 220, pp.8-10. Therefore, based on the above referenced policies, it follows that Petitioner's CDC provider should be paid for the CDC services that were provided for Child A between May 23, 2016, and July 23, 2016.

Similarly, with respect to the FAP case, Petitioner disputed the Department's failure to timely add Child A to Petitioner's ongoing FAP case and recalculate the FAP budget to reflect the additional group member. The Department testified that while it had record of the member add on May 16, 2016, because the case worker did not indicate on Bridges that Petitioner purchases and prepares food with the child, the FAP case was not updated to reflect the addition of Child A. However, the Department determines FAP group composition by applying the factors found in BEM 212 and based on Department policy, Petitioner and Child A are mandatory FAP group members, regardless of whether they purchase and prepare food together. BEM 212 (October 2015), pp. 1-2.

Department policy further provides that for FAP purposes, a member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. BEM 212, p. 9. The Department stated that based on the child's date of birth on [REDACTED], and the change report received on May 16, 2016, Petitioner's FAP group size should have been increased and Child A added to the FAP case with a benefit increase effective June 1, 2016. The Department conceded that as of the hearing date, it had not corrected the issue and Petitioner had not been supplemented for missed FAP benefits effective June 1, 2016. Therefore, based on the above referenced policy, as well as BAM 220, p. 7 as it relates to reported changes for FAP resulting in increased benefits, the Department should have processed the change report and increased Petitioner's FAP benefits effective June 1, 2016.

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 timely process Petitioner's change report and add Petitioner's child to her CDC and FAP cases.

DECISION AND ORDER

Accordingly, the Department's CDC and FAP decisions are **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. Process Petitioner's [REDACTED], change report in accordance with Department policies;
2. Recalculate Petitioner's FAP budget to include Child A as a FAP group member effective June 1, 2016;
3. Issue FAP supplements to Petitioner for any FAP benefits she was entitled to receive but did not from June 1, 2016, ongoing;
4. Activate Petitioner's CDC benefits for Child A effective May 23, 2016, as that is the reported start date for the child's attendance at the CDC provider;
5. Allow Petitioner's CDC provider to bill for CDC services provided on Petitioner's behalf for the period of May 23, 2016, to July 23, 2016;
6. Issue supplements to Petitioner and her CDC provider for CDC benefits Petitioner was entitled to receive for the period of May 23, 2016, to July 23, 2016; and
7. Notify Petitioner in writing of its decisions.

ZB/tlf



Zainab A. Baydoun
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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]