



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: December 19, 2016
MAHS Docket No.: 16-015638
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 [REDACTED], from [REDACTED] Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly terminated 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 benefit recipient.
2. Petitioner's CDC eligibility was scheduled for redetermination, effective [REDACTED].
3. On [REDACTED], MDHHS mailed Petitioner a Redetermination.
4. On an unspecified date, Petitioner submitted to MDHHS earning statements from [REDACTED].

5. On [REDACTED], MDHHS mailed Petitioner a VCL requesting Petitioner's last 30 days of income and a DHS-4025.
6. Petitioner failed to return the requested income verifications or a DHS-4025.
7. On [REDACTED], MDHHS initiated a termination of CDC benefits, effective [REDACTED], due to Petitioner's alleged failure to verify her last 30 days of income or to return a DHS-4025.
8. On [REDACTED], Petitioner requested a hearing to dispute the CDC termination.

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 termination of CDC benefits. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 7-10) dated [REDACTED]. The notice informed Petitioner of a CDC termination, effective [REDACTED], due to alleged Petitioner failures to verify earned income and CDC provider information.

MDHHS presented a Verification Checklist (Exhibit 1, pp. 1-2) dated [REDACTED]. [REDACTED] The "Last 30 days of check stubs or earnings statements" and a DHS-4025 were among the requested items listed on the VCL. It is debatable whether a DHS-4025 was necessary.

[MDHHS is to] use the DHS-4025, Child Development and Care Provider Verification, to verify the child(ren) in care, the date care began, where care is provided and the provider's relationship to the child(ren). BEM 702 (October 2016), p. 1. This form must be signed by both the parent and all provider types (centers, homes, unlicensed) and is required:

- Before adding a provider assignment to a child.
- When there is a break in a provider's assignments

Id.

MDHHS did not allege that Petitioner was adding a child to a provider assignment or that there was a break in assignment. The only alleged reason for needing the DHS-

4025 was that Petitioner's case was scheduled for redetermination; redetermination is not a listed basis to request the form.

It is found MDHHS improperly required a DHS-4025 from Respondent; thus, the termination based on Petitioner's failure to return the DHS-4025 was improper. The analysis will proceed to consider whether MDHHS properly terminated Petitioner's CDC eligibility due to an alleged failure to verify income.

[MDHHS is to...] use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (July 2016), p. 6. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

It is known MDHHS mailed Respondent a Redetermination on [REDACTED] (see Exhibit 1, pp. 11-16). Petitioner submitted income verifications from [REDACTED] (see Exhibit 1, pp. 5-6). Technically, Petitioner's most recent 30 days of income, at least as of the Redetermination mailing, would have had to include at least one pay from [REDACTED]. Thus, MDHHS appears justified in requiring more updated pay information. Despite, the justification, MDHHS was not justified in terminating Petitioner's CDC eligibility without further procedural protections afforded to Petitioner.

[For CDC benefits,] the client is responsible for obtaining any requested verifications needed to determine eligibility. BEM 702 (October 2016) p. 1. [MDHHS is to] use the DHS-3503, Verification Checklist, to inform the client of what verifications are needed at application and redetermination. *Id.* The client is allowed a full 10 calendar days from the date verification is requested (the date of request is not counted) to provide the requested information. Two 10-day extensions must be given to a client whose CDC redetermination materials are not returned or are returned as incomplete, resending VCLs after each verification due date. *Id.* The client is not required to request the extensions. *Id.*

Petitioner was entitled to receive a second VCL after failing to comply with a requirement of submitting her most recent 30 days of income. If Petitioner failed to comply a second time, then a third VCL would be required. MDHHS only verified that a single VCL was mailed.

It is found MDHHS improperly failed to mail Petitioner a second VCL requesting verification of income. Thus, the corresponding CDC termination based on a failure by Petitioner to return income verification was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's CDC eligibility. It is ordered

that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

(1) Reinstate Petitioner's CDC eligibility subject to the following findings:

- a. MDHHS had no basis for requesting a DHS-4025 at Petitioner's CDC benefit redetermination; and
- b. MDHHS failed to mail Petitioner a second VCL following Petitioner's failure to verify her "past 30 days" of income.

The actions taken by MDHHS are **REVERSED**.

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]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]