



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: February 24, 2017
MAHS Docket No.: 16-018320
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]. 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 recipient.
2. Petitioner's CDC eligibility was scheduled to end after [REDACTED]
3. On [REDACTED], MDHHS mailed Petitioner a Redetermination (Exhibit 1, pp. 5-12).
4. Petitioner failed to return the Redetermination or other redetermination documentation to MDHHS by [REDACTED].

5. On [REDACTED], MDHHS initiated termination of Petitioner's CDC eligibility, effective [REDACTED].
6. On [REDACTED] [REDACTED] [REDACTED] Petitioner submitted to MDHHS an Assistance Application requesting CDC benefits.
7. MDHHS allowed Petitioner's CDC eligibility to terminate.
8. On [REDACTED], Petitioner requested a hearing to dispute a termination of CDC benefits.

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 eligibility. There was some dispute about when a termination of CDC benefits began.

MDHHS presented an Eligibility Summary (Exhibit 1, p. 13). The document listed "approved" CDC benefits for Petitioner through [REDACTED]. The Eligibility Summary also listed a "pending" CDC benefit approval beginning [REDACTED]. To ensure that all disputed CDC benefits are addressed, Petitioner's hearing request will be interpreted as a dispute concerning a termination of CDC beginning [REDACTED].

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-4) dated [REDACTED]. The notice listed two reasons for termination. The first was that Petitioner did not meet program requirements; MDHHS testimony did not allege this as a valid reason for termination. The second stated reason was Petitioner's failure to submit redetermination documents.

The Michigan Department of Health and Human Services must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (July 2016), p. 1. The redetermination process includes thorough review of all eligibility factors. *Id.* A complete redetermination is required at least every 12 months. *Id.*, p. 2. Bridges sets the redetermination date according to benefit periods... *Id.*

[For all programs,] Bridges generates a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 7. Redetermination forms... may include a Redetermination DHHS-1010 (all programs[, or an] Assistance Application (all programs except Medicaid).... *Id.*

[For CDC benefits,] when redetermination packets are not logged by the 10th day of the redetermination month, the DHS-5322, Notice of Potential Child Development and Care (CDC) Closure, will be generated by Bridges to the client. *Id.*, p. 12. This notice informs the client that CDC benefits will end the pay period that holds the last day of the month. *Id.*

Petitioner's CDC eligibility was scheduled to end [REDACTED]. Presented evidence indicated that Petitioner failed to submit any redetermination documents to MDHHS by the [REDACTED]. Thus, MDHHS appropriately initiated termination of Petitioner's CDC eligibility on [REDACTED]. MDHHS testimony conceded an error in allowing Petitioner's CDC eligibility to end.

There are two types of written notice: adequate and timely. BAM 220 (July 2016), p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pended). *Id.* A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. *Id.*, p. 4.

It was not disputed that the termination of CDC benefits required issuance of timely notice. It was not disputed that Petitioner submitted an assistance application requesting CDC benefits to MDHHS on [REDACTED]. Petitioner's submission satisfied the MDHHS requirements of a redetermination document. MDHHS testimony properly conceded that Petitioner's application submission should have resulted in continued processing of CDC eligibility. MDHHS testimony also conceded that Petitioner's CDC eligibility was improperly allowed to expire. The MDHHS concessions were consistent with MDHHS policy and presented evidence. MDHHS will be ordered to process Petitioner's redetermination documentation.

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) Redetermine Petitioner's CDC eligibility, effective [REDACTED] subject to the finding that Petitioner's submitted application satisfied the requirement to return a Redetermination; and
- (2) Initiate processing of any benefits improperly not issued.

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]