



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 10, 2017
MAHS Docket No.: 16-018633
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 2, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Family Independence Manager [REDACTED] [REDACTED] and Eligibility Specialist [REDACTED]
[REDACTED]

ISSUE

Did the Department properly close Petitioner's Child Development and Care (CDC) 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 on-going CDC recipient.
2. On November 15, 2016, Petitioner submitted a Redetermination (Exhibit A Pages 2-7) as part of the review process for her CDC eligibility.
3. On December 1, 2016, the Department received copies of pay stubs (Pages 9-11) to document her and her husband's employment.

4. On December 6, 2016, the Department received an email (Page 12) from Petitioner, who works days, stating that her husband “works at night from so (sic) why would childcare be covered for those hours when this case was opened it was based off both our hours.”
5. The Department concluded, based upon that email, that, “If their schedules don’t overlap cdc should be closed at redet.” (Page 12.)
6. Petitioner works from 7:45 a.m. to approximately 5:00 p.m., and she has approximately one-half hour of travel time in the morning and the evening between home and work.
7. Petitioner’s husband works from 5:00 p.m. until anywhere from 10:30 p.m. to 12:30 a.m., and he too has approximately one-half hour of travel time each way.
8. On December 6, 2016, the Department mailed a Notice of Case Action (Pages 16-20), informing Petitioner that her CDC was being closed for the couple’s four children, beginning October 2, 2016.
9. On December 12, 2016, the Department received Petitioner’s hearing request, protesting the closure of her CDC.

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 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 submitted the completed Redetermination form. A series of emails were exchanged between the Department and Petitioner. Petitioner reported that her husband works at night, and the Department knew that she worked during the day. Based upon that comment, with nothing more, the Department concluded that their work schedules did not overlap and thus there was no need for CDC. Having concluded there was no need for CDC, the benefits were terminated.

Petitioner credibly testified during the hearing that her work schedule, including travel time at the end of the day, will sometimes overlap with her husband's work schedule. As noted in BAM 130 (1/1/17) p. 1, the Department is to obtain verification if "Information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory." In this case, the information regarding the overlap of work hours was a determining factor of Petitioner's eligibility for CDC. Instead of assuming there was no overlap, the Department should have requested verification. Had they done so, Petitioner could have demonstrated her need for continued CDC.

DECISION AND ORDER

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 closed Petitioner's CDC.

Accordingly, the Department's decision is **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. Redetermine Petitioner's eligibility for CDC as of October 2, 2016, and provide Petitioner with benefits if she is found to be eligible.



DJ/mc

Darryl Johnson
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]

Petitioner

[REDACTED]