



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 27, 2017  
MAHS Docket No.: 17-000313

[REDACTED]  
[REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

**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 was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist and [REDACTED] AP Supervisor. Department Exhibit 1, pp. 1-12 was received and admitted. Petitioner Exhibit A, pp. 1-14 was received and admitted.

**ISSUE**

Did the Department properly reduce 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 a recipient of CDC benefits receiving 80 hours biweekly.
2. On November 13, 2016, Petitioner's redetermination was processed and her CDC hours decreased from 80 hours biweekly to 40 hours biweekly.
3. Petitioner submitted redetermination paperwork and the Department attempted to verify her employment with [REDACTED].

4. ██████ provided a Verification of Employment form dated November 13, 2016, that stated under Number of Hours Expected to Work, "60-80+ (varies ██████ chooses her schedule)" (Dept. Ex.1, pp. 8-9)
5. ██████ provided another verification of employment form dated December 2, 2016, that states "Individual is not an employee. Individual is an independent contractor under applicable law.
6. ██████ provided a memo dated December 1, 2016, addressed to Petitioner's case worker ██████ that reads as follows: "We are in receipt of the Verification of Employment Form from the Department of Health and Human Services. We are unable to print or complete the form as it is password protected. Our response is as follows: ██████ is not a ██████ employee; rather is a self-employed Independent Contractor under applicable law providing virtual teleservices to ██████' clients. In February 2016, ██████ signed an Independent Contractor Agreement and W-9 (self-employed request for Tax ID). ██████ chooses if and when to provide services and does not have any benefit or insurance coverage though ██████ From August 1, 2016, through October 31, 2016, ██████ has received a total of ██████ from ██████s for her services. We can provide signed copies of documents, if required."
7. Petitioner provided a "Statement of Work" from ██████ ██████ Agent Services. (Petitioner Ex. A, pp. 1-6)
8. Petitioner provided Work History Printouts for December 4, 2016 – December 11, 2016, December 11, 2016 – December 18, 2016, and December 18, 2016 – December 25, 2016. (Petitioner Ex. A, pp. 7-14)
9. On January 1, 2017, Petitioner requested hearing disputing the reduction of her CDC hours.

### **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.

## Employment

Child care may be approved for P/SPs who are employed or self-employed and receive money, wages, self-employment profits or sales commissions.

**Note:** A P/SP is not eligible for CDC if his/her only need reason is employment as an unlicensed child care provider.

P/SPs participating in the following activities are considered to meet the need criteria based on employment including:

- Jury duty.
- Residency/internship for which wages are received.  
**Note:** If wages are not received, the need should be categorized as approved activity.
- Required to be on call.
- Required strike duty.
- Sleep periods (up to eight hours) for the employed P/SP when:
  - This person is the only P/SP available to provide care during the time period for which CDC is being requested.
  - This person works during the child's normal sleep time.
  - This person must sleep when the child is awake.
- The paid employment portion of a co-op, or work study program.

### ***Tools to Verify Need Based on Employment/Self Employment***

Use one of the following as tools to verify the **need** for CDC based on **employment**:

- A copy of a work schedule indicating the number of hours worked.
- Pay stubs indicating number of work hours.

- **DHS-38**, Verification of Employment, completed by the employer.
- TALX/Work Number and MIS (Management Information System).
- **DHS-3569**, Agricultural Worker Income Verification, completed by the employer.
- **Signed statement** by the employer that contains:
  - Employment begin date.
  - Number of hours the client works.
  - For income-eligible clients, dates and amounts of client's paychecks for the requested period.
- **Collateral contact** with the employer **if** the employer refuses or is unable to complete the DHS-38, DHS-3569, or a signed statement, or if the client is unable to obtain his/her work schedule from the employer or the pay stubs do not indicate number of work hours. Complete the DHS-38 or DHS-3569 based on the information obtained from this contact.
- DHS-431, Self-Employment Income and Expense Statement. BEM 703

In this case, Petitioner is an independent contractor performing teleservices for [REDACTED] clients via telephone from her home. Attempts were made by the Department to verify Petitioner's work hours by contacting [REDACTED] directly. The responses from [REDACTED]s did not provide detailed information about the hours Petitioner was working during the time period in question. Petitioner provided a "Work History" printout showing she had active availability from December 4, 2016, through December 25, 2016, and was taking calls during this time period. It is difficult to ascertain exactly how many hours Petitioner was "working" during this time period. However, nothing in evidence confirms that Petitioner stopped working for [REDACTED] or confirms that Petitioner's hours were reduced to 40 hours biweekly. Petitioner credibly testified that she was working 80 hours per week during the time period in question and provided all the information that was available to her. The Department provided insufficient proof that Petitioner's employment with [REDACTED] ended or that her hours were reduced to 40 hours biweekly. Therefore the Department's reduction of CDC hours was improper and incorrect. BEM 703

### **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 failed to

satisfy its burden of showing that it acted in accordance with Department policy when it reduced Petitioner's CDC hours.

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. Reinstate Petitioner's CDC hours to 80 hours per week back to the date of the reduction.
2. Issue a supplement for any missed benefits.



*Aaron McClintic*

---

**Aaron McClintic**

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

[REDACTED]

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

[REDACTED]

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