



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 22, 2018
MAHS Docket No.: 17-016542
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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; 42 CFR 438.400 to 438.424; 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 12, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department timely and properly assist Petitioner with her Child Development Care (CDC) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In September 2017, Petitioner submitted a child verification form in order to receive CDC benefits.
2. After submitting the form, Petitioner contacted her case worker by phone, then by email on September 19, 2017, September 20, 2017, October 18, 2017, and November 6, 2017, and then in person in November 2017 asking if there was anything else she needed to do in order to receive CDC benefits but received no response.
3. In December 2017, Petitioner's case worker went on a leave of absence and Petitioner received a new case worker.

4. The new case worker contacted Petitioner because he had seen the child verification form in her case file and notified her that if she wanted CDC benefits, she needed to fill out an application.
5. On the same day, December 19, 2017, Petitioner submitted her CDC application.
6. On December 19, 2017, she also submitted a hearing request seeking retroactive assistance because of the Department's failure to inform her of the necessary procedures to receive CDC assistance.
7. As of February 12, 2018, Petitioner's CDC application was granted for 20 hours per week from December 19, 2017 ongoing.
8. The Department never made a decision about Petitioner's receipt of CDC benefits from September 2017 through December 18, 2017.

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 is seeking retroactive CDC benefits from September 2017 ongoing based upon the Department's failure to assist her in the application process. The Department's position is that it cannot process an application that it does not have; therefore, it cannot give her retroactive CDC benefits.

A person has the right to file an application and get local office help to provide the minimum information for filing. BAM 105 (October 2016), p. 1. Department staff is required to ensure that client rights described in BAM 105 are honored and that client responsibilities are explained in understandable terms. BAM 105, p. 13. A request for assistance may be in person, by mail, telephone, email, or online. The requester has the right to receive the appropriate application form:

- DHS-1171, Assistance Application (all programs except Medicaid). The DHS-1171 packet includes an information booklet and the assistance application. A MI Bridges online application is considered the same as the DHS-1171.
- MDE04583, Child Development and Care (CDC) Program Application.

BAM 110 (January 2017), p. 1. Local offices must assist clients who need and request help to complete the application forms. BAM 110, p. 1; BAM 115. For a request in person, the local office must give the requester an application the same day, explain the right to file the application that day and encourage the client to do so, and explain that the application date might affect the amount of benefits. BAM 110, p. 2. For a request by letter or telephone, the application must be mailed the end of the next workday. *Id.* If the application is not returned, the Department must contact the requester according to local office procedures. *Id.* In CDC cases, when a request is made in person, the local office must give the client the following forms:

- MDE-4583, CDC Program Application, or a DHS-1171, Assistance Application.
- DHS-4025, Child Care Provider Verification.

Id. In CDC cases where there is a request by letter or telephone for assistance, the application must be mailed with the above forms to the requester by the end of the next workday. BAM 110, p. 3. If the client has a completed, pending DHS-1171 or MI Bridges application for another program and verbally requests CDC benefits, the case must be documented and a DHS-3503 Verification Check List (VCL) must be mailed for any additional required verifications. *Id.* The CDC application date is the date the CDC program was requested. *Id.*

In September 2017, Petitioner had an annual Redetermination due for another program. During the same week, she notified her case worker that she wanted to start CDC benefits for her son because she was starting a new job and he was starting school. At some point in September 2017, her son's school submitted a child verification form to Petitioner's case worker. Petitioner then emailed her case worker asking for assistance and trying to figure out what else was required of her to complete the CDC process. She emailed her case worker on September 19, 2017, September 20, 2017, October 18, 2017, and November 6, 2017. She did not receive a response to any of these emails. Petitioner did not contact her case worker by phone because her case worker had advised her that she does not respond to phone calls, and the best way to reach her was by phone. In November 2017, Petitioner turned in another 6-Month Review form and during her visit asked about the CDC case. She did not receive a straight answer or the appropriate filing forms. On November 21, 2017, Petitioner's case worker went on a leave of absence. On December 19, 2017, Petitioner's new case worker contacted her and advised her that he had her child verification form, but that he could not process a CDC case without an application. Petitioner submitted the CDC application the same day.

Petitioner asked for assistance with the CDC case at least five times. Her original case worker failed to respond or provide the appropriate forms. She only received assistance once she received a new case worker. Petitioner's original case worker did not ensure Petitioner's rights pursuant to BAM 105 were honored. Once the new case worker began working with Petitioner, he should have back-dated her application to the date of Petitioner's first request for assistance in filling out the application, then sent Petitioner a VCL since Petitioner is already an active recipient in other programs. BAM 110, p. 3.

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 assist Petitioner in the CDC application process.

DECISION AND ORDER

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. Reregister and reprocess Petitioner's request for CDC benefits as having an application date as of September 19, 2017;
2. If Petitioner is eligible for CDC benefits, issue supplements on behalf of Petitioner for which she was eligible but that were not previously issued on her behalf for the period from September 19, 2017 through December 18, 2017; and
3. Notify Petitioner in writing of its decision.



AM/

Amanda M. T. Marler
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]

Petitioner

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