



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: October 24, 2019  
MOAHR Docket No.: 19-009870  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 October 21, 2019, from Detroit, Michigan. Petitioner was represented by her Living Together Partner (LTP), [REDACTED]. The Department of Health and Human Services (Department) was represented by Terri Chase, Eligibility Specialist.

### **ISSUE**

Did the Department properly follow policy when it failed to issue payment to Petitioner's Child Development and Care (CDC) benefit provider?

### **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. On December 12, 2018, Petitioner completed a redetermination (Exhibit A, pp. 1-8).
3. In July 2019, the Department belatedly processed Petitioner's redetermination.
4. On July 24, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her CDC benefit case was closing effective August 18, 2019 (Exhibit A, pp. 15-18).

5. On [REDACTED], 2019, Petitioner submitted a request for hearing alleging the Department did not issue payment to her CDC provider between the period of July 7, 2019 and August 17, 2019.

### **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 was an ongoing CDC benefit recipient. In January 2019, Petitioner completed the redetermination process related to her CDC benefit case. The Department determined that Petitioner was not eligible for CDC benefits, due to excess income. However, the determination that Petitioner was not eligible for CDC benefits was not made until July 2019. The Department sent Petitioner a NOCA on July 24, 2019, informing her that her CDC benefit case was closing effective August 18, 2019. As a result, Petitioner continued to take her child to daycare through August 18, 2019. Petitioner's LTP testified that the daycare provider did not receive payment from July 7, 2019 through August 17, 2019.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (April 2019), p. 2. A notice of case action must specify the following: the action(s) being taken by the department, the reason(s) for the action, the specific manual item which cites the legal base for an action or the regulation or law itself, an explanation of the right to request a hearing and the conditions under which benefits are continued if a hearing is requested. BAM 220, p. 3. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 5. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 5. The action is pended to provide the client a chance to react to the proposed action. BAM 220, p. 5.

The Department testified that Petitioner's CDC benefit case was active through August 18, 2019. However, effective July 7, 2019, Petitioner's child was removed from the group. As a result, the Department only issued payment to Petitioner's CDC provider through July 6, 2019 (Exhibit A, p. 29). The Department stated that Petitioner's CDC benefit case should have closed in January 2019, as the group exceeded the income

limit under the CDC program. The Department committed an agency error and did not timely close Petitioner's CDC benefit case.

The Department cannot retroactively close a client's benefit case. Per policy, a timely notice must be issued prior to the closure of a benefit case. Although Petitioner's CDC benefit case was technically active through August 18, 2019, payments were not made to the provider beginning July 7, 2019. As such, the Department took the negative action prior to the timely notice period. Therefore, the Department did not properly follow policy when closing Petitioner's CDC benefit case.

### **DECISION AND ORDER**

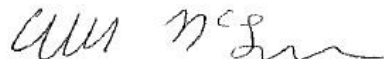
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it failed to issue payment to Petitioner's CDC provider between the period of July 7, 2019 through August 17, 2019.

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 benefit case between July 7, 2019 and August 17, 2019;
2. Issue payment to Petitioner's CDC provider between July 7, 2019 and August 17, 2019; and
3. Notify Petitioner of its action in writing.

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**Ellen McLemore**  
Administrative Law Judge  
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**Via Email:**

MDHHS-Midland-Hearings  
L. Brewer-Walraven  
BSC2- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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