



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: February 25, 2021
MOAHR Docket No.: 20-008280
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 18, 2021, from Lansing, Michigan. The Petitioner [REDACTED], self-represented at the hearing. The Department of Health and Human Services (Department or Respondent) was represented by Carol Rowland, Family Independence Specialist and Brian Magda, Family Independence Specialist.

Respondent's Exhibit 1-5 (Pages 1-50) were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's request for 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 CDC benefit recipient for her foster care children.
2. On December 14, 2019, Petitioner sent a DHS-1010 for her Food Assistance Program and CDC cases. (Exhibit 1)
3. Petitioner was no longer employed.
4. On January 10, 2020, Petitioner was sent a Notice of potential CDC case closure. (Exhibit 2)

5. On January 17, 2020, Petitioner was sent a Notice Case Action closing her CDC program for February 2, 2020-ongoing. (Exhibit 3)
6. On June 5, 2020, the Department received a DHS-4025 provider form, which they filed but took no action on.
7. On November 5, 2020, Petitioner submitted a new CDC application (Exhibit 4), requesting that the Department provide coverage going back to June 2020.
8. The Department provided Petitioner coverage going back two weeks prior to the application due date because Petitioner is a foster care parent. (Exhibit 5)
9. On December 14, 2020, Petitioner filed a Request for Hearing.
10. On December 29, 2020, the Michigan Office of Administrative Hearings and Rules received a hearing summary and attached documents.

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.

Pertinent Department policy states:

The goal of the Child Development and Care (CDC) program is to support low-income families by providing access to high-quality, affordable and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. The Child Development and Care program is intended to promote continuity of care and to extend the time an eligible child has access to childcare assistance by providing a subsidy for childcare services for qualifying families.

Once eligibility has been determined, the child(ren) will remain eligible for the entire 12-month certification period unless the CDC EDG closes for one of the reasons listed in BAM 220. A change or termination in the parent/substitute parent's (P/SP) valid need

reason will not affect the child's eligibility. At application or redetermination, eligibility for CDC services exists when the department has established all of the following:

- **There is a signed application and a request for CDC services.**
- Each child for whom CDC is requested is a member of a valid eligibility group.
- Each P/SP meets the need criteria as outlined in this item.
- All eligibility requirements are met. (BEM 703, page 1)(Emphasis added)

The applicant/client is the person who signs the application and who serves as primary contact with the Michigan Department of Health and Human Services (MDHHS). This person must live with the child(ren) for whom care is requested, and be one of the following in relation to the child(ren) needing care:

- Parent, stepparent or **foster parent of the child.** (Emphasis added)
- Another related person acting as caretaker to the child.
- Legal guardian of the child.
- An unrelated adult who is at least age 21 and whose petition for legal guardianship of the child is pending.
- An unrelated adult with whom MDHHS Children's Services has placed a child, subsequent to a court order identifying MDHHS as responsible for the child's care and supervision.
- The FIP grantee for the child.

A minor parent (unmarried and under age 18) may be the applicant only if his/her parent or legal guardian does not live in the home. If the minor parent's parent or legal guardian lives in the home, he/she must be the applicant. Exception: If the child needing care receives FIP, the FIP grantee must be the applicant.

When an application is received and it is determined that another CDC household member must be the applicant, send or give a new application to that person. If the signed, completed application is returned within 10 calendar days of the date the specialist requested the new application, use the date of the original application as the receipt date. The original application must be filed and kept in the correct applicant's case record. (BEM 205, page 2)

Child Development and Care (CDC) payments are made when all of the following are true:

- All eligibility requirements are met.
- A CDC case is open in Bridges.
- An eligible provider is assigned to the child and provides care.
- The provider successfully bills for childcare.
- Payment limits have not been reached. (BEM 706, page 1)

The first day that a child care provider may be assigned to a child is the latest of the following:

- The CDC application receipt date. Exception: **For foster care only, 21 calendar days prior to the CDC application receipt date.**
- **The date the child care began (listed on the DHS-4025).**
- The date the provider becomes eligible for subsidy payments.
- **60 calendar days prior to the receipt of a completed DHS-4025.** Note: For payment issuance requirements and provider assignment restrictions; see BEM 706, Provider Payments. (Emphasis added)

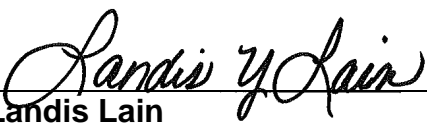
In this case, Petitioner or the Provider turned in her DHS-4025 form on June 5, 2020. The Department took no action and did not notify Petitioner that she needed to file a new application for childcare for her foster care children. For foster children 21 calendar days prior to the CDC application receipt day is the latest date a childcare provider may be assigned to a child in this case.

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 act in accordance with Department policy when it denied Petitioner Child Day Care Payments for her foster care children from June through November 2020. The Department has established this case by a preponderance of the evidence.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

LL/hb



Landis Lain
Administrative Law Judge
for Elizabeth Hertel, 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

DHHS

Livingston County via electronic mail

BSC4 via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

[REDACTED], MI [REDACTED]