



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: March 11, 2019
MAHS Docket No.: 19-000621
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 March 7, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Natalie McLaurin, Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's Child Development and Care (CDC) benefit payments?

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's was an ongoing CDC benefit recipient for two of her children.
2. On September 13, 2018, the Department issued Petitioner a check for CDC benefit payments for the period of July 8, 2018 through September 1, 2018, for both children in the amount of \$ [REDACTED] (Exhibit C, pp. 1-8).
3. On October 4, 2018, Petitioner contacted the Department and stated she did not receive the check issued on September 13, 2018 (Exhibit B).
4. On January 10, 2019, Petitioner submitted a request for hearing arguing the Department failed to process her CDC payment.

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 for two of her children. Petitioner's CDC provider was her children's cousin and was not a licensed daycare provider (Exhibit A). As such, Petitioner's CDC benefits were not issued to the provider, but rather, directly to Petitioner. On September 13, 2018, a check was issued to Petitioner for the payment of CDC benefits for the period of July 8, 2018 through September 1, 2018, for both children in the amount of \$[REDACTED]. Petitioner testified that she never received the check.

All providers must bill the Department biweekly for care provided. BEM 706 (October 2018), p. 4. Payments are generated based on the provider's billing and the authorization of the provider. BEM 706, p. 4. Child care payments are issued weekly. BEM 706, p. 4. Payments are issued in the name of the provider and mailed to the provider, except payments for licensed exempt-related and license-exempt-unrelated providers, which are issued to the client. BEM 706, p. 5.

The Department presented Petitioner's CDC benefit details (Exhibit C). According to the documents, on September 13, 2018, a payment was issued to Respondent for the period of July 8, 2018 through September 1, 2018, for both children in the amount of \$[REDACTED]. The Department testified that a check was issued to Respondent on September 13, 2018, and that the check was cleared. The Department testified that the documents do not show that the check was cleared, only that it was issued. The individual that testified at the hearing on behalf of the Department stated that she was notified by the CDC benefit department that the check had cleared.

The Department presented sufficient evidence to establish that Respondent was issued payment for her CDC benefits on September 13, 2018. However, there was insufficient evidence presented that Respondent actually received the payment. The Department supplied evidence that Respondent had been issued a check for her CDC benefits but not that the check had cleared. Thus, the Department did not present sufficient evidence that it complied with policy when issuing payment to Petitioner for her CDC benefits.

DECISION AND ORDER

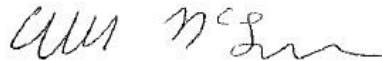
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's CDC benefit payment.

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. Reprocess Petitioner's CDC benefit payment for the period of July 8, 2018 through September 1, 2018;
2. If Petitioner has not received payment, reissue payment.

EM/jaf



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 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) 763-0155; 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

Kathleen Verdoni
MDHHS-Saginaw-Hearings

Petitioner

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