



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: May 16, 2024
MOAHR Docket No.: 24-003485
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 April 29, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Shyla Coleman, Eligibility Specialist.

ISSUE

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

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 February 2023, Petitioner applied and was approved for CDC benefits for her three minor children [REDACTED] (LG), [REDACTED] (AM) and [REDACTED] (AM2). Exhibit A, p. 53.
2. On August 16, 2023, the Department sent Petitioner a Notice of Case Action indicating that Petitioner was approved for CDC benefits for the period of June 18, 2023 to July 1, 2023 authorizing 40 hours for LG, AM and AM2. Exhibit A, pp. 63-69. [REDACTED] (Provider) was listed as the Provider. Exhibit A, p. 65.
3. On or around October 3, 2023, Provider completed the CDC Provider Verification and indicated she was *not* related to LG, AM, and AM2 and would provide care in the home where the children live. Exhibit A, pp. 71-72. It is not known when the document was submitted to the Department.

4. On March 20, 2024, Petitioner submitted a hearing request stating the Department had not approved CDC payments and Provider's identification number was assigned to someone else. Exhibit A, p. 7.

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 requested a hearing because the Department had not approved her CDC Provider. The Department stated the issue is whether Provider is a related or unrelated provider. According to the Department, Provider is currently authorized as a related provider based on provider applications she provided to the Department prior to August 2023 and has a related provider identification number but if Provider is an unrelated provider, then Provider must show proof of nonrelation and the Department will update her provider identification number to an unrelated provider number.

Before adding a provider assignment to a child, the CDC Provider Verification form must be completed to verify the child(ren) in care, the date care began, where care is provided and the provider's relationship to the child(ren). BEM 702 (January 2024), p. 3. License exempt providers may be related or unrelated. BEM 704 (March 2024), p. 1. A license exempt-*related* provider must be all the following: an adult who is 18 years or older; provides care for no more than six children at one time; provides care in the provider's home or where the child(ren) lives; related to the child(ren) by blood, marriage or adoption as one of the following: (Great) Grandparent, (Great) Aunt or Uncle, Sibling (allowable only if the provider lives at a different residence). BEM 704 p. 3. A license exempt-*unrelated* provider must be all the following: an adult who is 18 years or older; provides care for no more than six children at one time; and provides care where the child(ren) lives.

Here, Provider initially applied as a license exempt-related provider and indicated she was the sibling of the children. Later, Provider was determined to be related as a cousin, not sibling, to LG; and not related to AM and AM2. A cousin is not a qualifying license exempt-related familial relationship. BEM 704, p. 3. Provider submitted a new

CDC Provider Verification, dated October 3, 2023, indicating she was not related to the children and would provide care for only the three listed children at the children's home. Petitioner testified that Provider sent another CDC Provider Verification on or around March 23, 2024, showing that she was a non-relative provider and sent proof of nonrelation. Petitioner testified that on April 4, 2024, she emailed the Department to inform them that Provider was only related to LG as a cousin, not a sibling.

Based on the evidence presented, Petitioner made numerous contacts to the Department between December 2023 and March 2024 regarding the issue of Provider's approval. Most recently, on March 20, 2024, Petitioner reported to the Department that Provider had completed yet another CDC unrelated provider application and sent it "to Lansing." Exhibit A, p. 49-53. Petitioner made several contacts with the Department in an attempt to correct the discrepancy between the related and unrelated provider designation. *Id.* The Department's general response to Petitioner's inquiries was to advise that the provider should submit another CDC Provider Verification. Once the application is received, the Department is required to complete an interview with the provider and background checks. BEM 704, p. 6. Enrollment is complete when the completed application has been received, the telephone interview has been conducted, all background check clearances have been returned, and the provider applicant meets all criteria to be a license exempt-unrelated provider. BEM 704, p. 7. Failure to complete any portion of the enrollment process will result in the denial of the provider application. BEM 704, p. 7.

The Department testified that Provider's verification was again denied March 1, 2024. The Department testified that it does not always know what documents are submitted to the Child Development and Care Provider Enrollment office (CDC Office) and the Department had no record of Provider submitting proof of non-relation on or around March 23, 2024. The Department also testified that the location of the care was a problem, but it is unclear as to why it was problematic, considering the October 3, 2023 verification indicated care was to be provided in the children's home, which is permissible under the license exempt-*unrelated* provider requirements. BEM 704, 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's CDC Provider Verification dated October 3, 2023.

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. Reprocess Petitioner's CDC Provider Verifications received by the Department or the CDC Office to determine the earliest date Provider satisfied the license-exempt unrelated provider requirements.
2. If Provider is an eligible license-exempt unrelated provider, allow her to bill for CDC services provided to LG, AM, and AM2 in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.



JN/ml

Julia Norton
Administrative Law Judge

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 Electronic Mail:

DHHS

Jeanenne Broadnax
Wayne-Taylor-DHHS
25637 Ecorse Rd.
Taylor, MI 48180

MDHHS-Wayne-18-Hearings@michigan.gov

Interested Parties

BSC4
L Brewer-Walraven
MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
[REDACTED]
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