

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2008-28912
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 12, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on January 12, 2010. The claimant personally appeared and provided testimony, along with [REDACTED], the claimant's Child Development and Care (CDC) requested care provider.

ISSUE

Did the department properly deny the claimant's CDC provider application in July, 2008 due to Child Protective Services (CPS) information?

FINDINGS OF FACT

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

1. The claimant submitted a Child Care Provider Verification form (DHS-4025) on June 3, 2008, requesting that [REDACTED] be her CDC provider. (Department Exhibit 1).

2. The Request for Criminal History and Central Registry Check (DHS-4661-P) showed that [REDACTED] was on the CPS Central Registry as a perpetrator. (Department Exhibit 2, 3).
3. The claimant's CDC provider application was denied due to the CPS history.
4. The claimant requested a hearing on August 5, 2008.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

DAY CARE AIDE OR RELATIFVE CARE PROVIDER APPLICATIONS

Before enrolling a day care aide or relative care provider on MPS, the prospective provider must complete the DHS-220-A/220-A-SP, Day Care Aide Provider Application or the DHS-220-R/220-R-SP, Relative Care Provider Application. In addition to the application, **all** of the following checks **must** be completed prior to enrollment on all day care aides (see Note below), relative care providers and household members age 18 and over, living in the relative care provider applicant's home:

- . Central Registry,
- . ICHAT, Internet Criminal History Access Tool,
- . OTIS, Offender Tracking Information Service,
- . PSOR, Public Sex Offender Registry,

- . NSOPR, National Sex Offender Public Registry.

All checks must also be completed when the specialist becomes aware that a new household member, over the age of 18, has moved into the relative care provider's home or when information is provided that an adult household member, age 18 and over, is on CR as a perpetrator or has a criminal conviction. PEM 704, pp. 7-8.

No Criminal History Match

If the provider applicant or household member, age 18 and over, does not have a criminal history match on any of the four registries, is not on CR and all other enrollment requirements are met, enroll the provider. File the DHS-4661-P and all criminal history verifications in the provider file. PEM 704, p. 11.

Notice to Client and Aide/Relative Applicant of Provider Eligibility

Within 6 workdays of receiving the DHS-220-A/220-A-SP or DHS-220-R/220-R-SP from a person applying to be a day care aide or relative care provider, the local office must:

- . Review the provider application to determine if the provider applicant has self reported a crime outside of Michigan.
- . Complete a Central Registry check.
- . Complete all criminal history checks (ICHAT, OTIS, PSOR, NSOPR).
- . Determine eligibility of the provider applicant to be enrolled, and
- . Send a notice to the client and provider applicant informing him/her of whether the provider application is approved or denied. Use the DHS-4807, Notice of Child Care Provider Eligibility. Send a DHS-759, Request for Administrative Review of Criminal Conviction, if applicable.

If the client has questions about the denial of the aide/relative applicant's enrollment he/she should be told to discuss the issue with the aide/relative provider applicant. PEM, Item 704, p. 14.

Denial/Termination Of Aide/Relative Enrollment

The Department **must** deny or terminate the enrollment of a day care aide or relative care provider if it is determined that:

- . the aide/relative has deliberately misrepresented or falsified information on the provider application, or
- . the aide/relative fails to meet any one of the requirements or fails to abide by any of the conditions as stated on the provider application, or
- . the aide/relative or any adult member in the relative care applicant/provider's home is on the Central Registry as a perpetrator, or
- . The aide/relative or any adult in the relative care applicant/provider's home has been convicted of a crime listed in the crime codes exhibit, unless an administrative review of the crime determines he/she is eligible. PEM 704, pp. 14-15.

In this case, the claimant is disputing the department's determination that her CDC provider was not eligible due to a finding by the department that the provider was on the CPS Central Registry as a perpetrator.

Department policy requires the department to deny any daycare aide or relative care provider that is on the Central Registry as a perpetrator. PEM 704. In this case, the department submitted the Request for Criminal History and Central Registry Check and information was returned that indicated the claimant was on the CPS Central Registry as a perpetrator with an incident complaint date of April 17, 2007. Thus, the department denied the daycare aide application for [REDACTED]

The claimant and [REDACTED] do not dispute that [REDACTED] was on the CPS Central Registry. At the hearing, [REDACTED] testified that her record had been expunged on August 27, 2008 and that she should be eligible to be a daycare provider.

However, at the time of the application and the Central Registry check by the department, [REDACTED] record was not yet expunged. Department policy clearly dictates that the provider application must be denied if the provider is on the Central Registry as a perpetrator. Since the claimant was still on the Registry when the application was submitted, the department properly denied her provider application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied [REDACTED] provider application in July, 2008, as the Central Registry check showed she was a perpetrator.

Accordingly, the department's decision is UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 1, 2010

Date Mailed: Mach 2, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

SLK [REDACTED]

cc:

[REDACTED]