

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.: 2009-16389
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 14, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 conducted from Detroit, Michigan on June 14, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

1. Whether DHS properly denied Claimant's Child Development and Care (CDC) application due to Claimant's lack of cooperation with obtaining child support.
2. Whether Claimant's CDC provider is eligible to be a CDC provider without providing care in the child's home or meeting the relative requirements of a relative care provider.

FINDINGS OF FACT

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

1. Claimant applied for CDC on 10/17/08.

2. Claimant submitted a Child Care Provider Verification (Exhibit 6) on 10/17/08 listing Tiffany Newman as claimant's CDC provider.
3. Based on a Notice of Non-Cooperation dated 9/18/08 (Exhibit 4), DHS believed that Claimant was not cooperating with obtaining child support for her son Tre'veon.
4. On 11/21/08 DHS denied Claimant's 10/17/08 CDC request on the basis that Claimant was non-cooperative with obtaining child support.
5. On 1/21/09, DHS received two notices that Claimant was cooperating with obtaining child support; the notice dated 10/30/08 stated Claimant was cooperative effective 8/21/08 (Exhibit 2) and the notice dated 11/21/08 stated Claimant was cooperative effective 11/20/08 (Exhibit 3)
6. Claimant submitted a hearing request on 1/21/09 disputing the denial of her CDC application.

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 (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Current DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). At the time of the denial to Claimant's CDC request, the DHS policies were located in Program Administrative Manual (PAM), Program Eligibility Manual (PEM) and Reference Tables Manual (RFT).

Clients must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance. PEM 255 at 1. Cooperation in identifying absent parents is a mandatory condition of CDC eligibility. *Id* at 8. Child support specialists (CSS) work within DHS and are responsible for obtaining information from clients concerning absent parents and notifying DHS specialists of a client's cooperation/non-cooperation status. *Id* at 5.

As of Claimant's 10/17/08 CDC application, DHS received information that Claimant was not cooperating with obtaining child support. DHS appropriately informed Claimant of the non-cooperation status and patiently waited to receive a notice from the CSS that Claimant was cooperating with obtaining child support. On 11/21/08 DHS received no such notice and denied Claimant's CDC application for failing to cooperate in obtaining child support.

The date that is critical in determining Claimant's CDC eligibility is the date that Claimant is considered cooperative. In the present case, DHS received two notices that Claimant was cooperative with obtaining child support, each with a different date. A notice dated 10/30/08 (Exhibit 2) states that Claimant was cooperative effective 8/21/08. A notice dated 11/21/08 (Exhibit 3) states that Claimant became cooperative effective 11/20/08. DHS also received a 10/27/08 email from the CSS indicating that Claimant was non-cooperative as of 10/27/08. Exhibit 5. The CSS was not present for the hearing and did not present testimony clarifying which notice was correct. Claimant's testimony was that she was always cooperative with providing information in obtaining child support. Based on the conflicting notices sent by the CSS and the lack of clarifying testimony, the undersigned is inclined to select the earliest date as the date of Claimant's non-cooperation. It is found that Claimant was cooperative with obtaining child support on 8/21/08.

The DHS specialist had no knowledge of Claimant's cooperation status as both notices of cooperation were not received by DHS until 1/21/09. As of 11/21/08, looking only at the information available to the DHS specialist, DHS appeared to properly deny Claimant's CDC request. However, the evidence showed Claimant was cooperative with obtaining child support as of 8/21/08. The undersigned cannot uphold the DHS denial when it was based on inaccurate information though it is conceded that the inaccuracy was not caused by the DHS specialist. It is found that DHS improperly denied Claimant's request for CDC benefits as Claimant was cooperative with obtaining child support at the time of her application.

CDC care must be provided by an eligible provider. PEM 704 at 1. Eligible providers are those regulated by DHS, Bureau of Children and Adult Licensing or enrolled by DHS. *Id.* A day care aide is an individual (including a relative) who provides care in the home where the child lives. *Id.* at 4. A relative care provider is related to the child needing care by blood, marriage or adoption as either a: grandparent/step-grandparent, great-grandparent/step-great-grandparent, aunt/step-aunt, uncle/step-uncle or sibling/step-sibling. *Id.* Based on the Child Care Provider Verification (Exhibit 6) submitted by Claimant, Claimant's provider could not be a relative care provider because she did not meet any of the above listed relationships. Claimant's provider could not be a day care aide unless the care was provided in the child's home.

DHS contended that Claimant should not receive CDC payments for a time when Claimant did not utilize a CDC provider authorized to receive payments. The DHS argument is persuasive, but only until the date of the Child Care Provider Verification submission date, 10/17/08.

Claimant and her provider had no reason to know the restrictions on CDC provider eligibility; thus, it would be incumbent on the DHS specialist to timely inform Claimant that the

selected provider was not eligible to receive payment based on the reported circumstances. If Claimant had such information, Claimant could have arranged for the CDC provider to provide care in the child's home, which would have made the CDC provider eligible as a day care aide, or to quickly find another provider. There is no evidence that DHS informed Claimant that her provider, as submitted, would be ineligible to receive CDC payments. It is found that Claimant's selected CDC provider is not eligible for CDC payments only until 10/17/08, the date Claimant submitted her Child Care Provider Verification.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's 10/17/08 request for CDC benefits. It is ordered that DHS shall reinstate Claimant's CDC application dated 10/17/08 and process the application subject to the finding that Claimant was cooperative with obtaining child support. It is further ordered that Claimant's CDC provider, Tiffany Newman, not be denied CDC provider eligibility as a day care aide due to not providing CDC care in the child's home after 10/17/08. DHS may make necessary requests for verification regarding Claimant's CDC eligibility in accordance with their policies.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/29/2010

Date Mailed: 6/29/2010

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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

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