

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2009-1671
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 30, 2010
Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing was held on Wednesday, June 30, 2010. The Claimant appeared, along with [REDACTED] and testified. [REDACTED] appeared on behalf of the Department.

ISSUE

Whether the Department properly determined the Claimant's childcare provider was not an eligible provider pursuant to policy?

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 Development and Care ("CDC") application on August 19, 2008.
2. The Claimant requested a relative be the care provider. (Exhibit 1, 3)
3. The relative provider's middle name was [REDACTED] his race was black, and his date of birth was [REDACTED]. (Exhibit 3)
4. The Department ran a criminal background check on the selected provider and determined that the provider had a criminal history. (Exhibit 2)

5. The criminal history record was for a white male with a middle name of [REDACTED] and a birth date of [REDACTED]. (Exhibit 2)
6. On September 11, 2008, the Department sent an Eligibility Notice to the Claimant informing her that her CDC benefits were denied based on the provider purportedly failing the background check.
7. On September 23, 2008, the Department received the Claimant's timely request for hearing.

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. Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("BRM").

The goal of CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified families. BEM 703 DHS may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education, and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. BEM 703 Child care may be provided in or out of the child(ren)'s home. BEM 704 The client is responsible for obtaining any requested verifications needed to determine eligibility. BEM 702 The client is allowed a full 10 calendar days from the date verification is requested to provided the requested information. BEM 702

Clients have the right to choose where the care will be provided as well as the type of child care provider they wish to use. BEM 704 In order for DHS to pay, care must be provided in Michigan by an eligible provider. BEM 704 Day care aides and relative care providers are enrolled by DHS to provide care but are not required to be regulated. BEM 704 A day care aide is an individual, including a relative, who provides care in the home where the child lives. BEM 704 A relative care provider is related to the child needing care by blood, marriage, or adoption. BEM 704 Before enrolling a day care aide or relative care provider, a central registry check and criminal history background clearances must be completed prior to enrollment. BEM 704

In this case, the Claimant submitted an application for CDC benefits. As part of the process, the Claimant requested a relative be the care provider. The Department ran an investigation on the provider and determined that the Claimant's provider had a criminal background resulting in the denial of the CDC application. In review of the Internet Criminal History Access Tool ("ICHAT") the individual with the criminal history was not the Claimant's selected provider. The Claimant's provider was a black male with a middle name of [REDACTED] and a birth date of [REDACTED]. The individual on the ICHAT was white male with a middle name of [REDACTED] and a birth date of [REDACTED]. The Claimant was not informed of the reason for the denial prior to the denial thus was not provided an opportunity to point out the aforementioned discrepancies.

Based upon the foregoing facts and relevant law, it is found that the Department failed to establish it acted in accordance with department policy when it denied the Claimant's CDC application. Accordingly, the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department's denial is REVERSED.

Accordingly, it is ORDERED:

1. The Department's denial of the CDC application is REVERSED.
2. The Department shall re-open and reprocess the Claimant's CDC application in accordance with department policy.
3. The Department shall supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/06/2010

Date Mailed: 07/06/2010

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 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.

CMM/jlg

cc:

