

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: 2009-22937
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 24, 2009
Emmet County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 November 24, 2009.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's Child Development and Care (CDC) application of 3/18/09?

FINDINGS OF FACT

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

- (1) On 3/18/09, claimant applied for child day care assistance on a DHS-4583.
- (2) Page 1 of the application gives an option of four choices for applying for child day care:

19. Why do you need child care services (check **all** that apply.)

- Work
- High school or GED completion
- Approved education/training/employment preparation
- Emotional/health or social program (explain):

Exhibit 8.

(3) Claimant checked off the box for work.

(4) All necessary verifications were delivered and the department ran a CDC budget on 3/31 using LOA2 information.

(5) Unrefuted evidence on the record is that claimant's countable income of \$2,111 exceeded the limit of \$1,990.

(6) On 3/31/09, the DHS issued a denial notice informing claimant that he was denied for the following reason: "The family's gross monthly income exceeds the income eligibility limits."

(7) On 4/14/09, claimant filed a hearing request stating in part that: "...their [sic] is currently an [sic] child protective services case open."

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).

Applicable policy and procedure to the case herein is found in BEM, Item 500, where income is explained. More specifically to the case herein, BEM, Item 702, discusses CDC program requirements. Unrefuted evidence on the record is that this item allows for family preservation in situations where there is a CPS case to suffice as a need reason assuming certain requirements are met. Claimant presumably would meet these requirements.

The department testified at the administrative hearing that they had no knowledge or information that claimant had a CPS case. The department testified that in order for claimant to be eligible for the same he would have to have applied by indicating on the application that he had a need for: “emotional/health or social program.” Exhibit 8.

This Administrative Law Judge does not necessarily find that the application is clear. However, at the same time, claimant did not indicate that he had a need for child day care for any reason other than work. The last box did offer an opportunity for an individual to indicate emotional/health or social program and a line for any explanation. Furthermore, the instruction for this question was open-ended giving an individual an opportunity to explain further.

There is no duty on the part of the department to inform individuals of programs which are available when the department has no knowledge or information as to the need. Nor can this Administrative Law Judge find any duty on the part of the department to reverse a prior denial upon information in a hearing request which would inform the department of a potential need. The purview of an Administrative Law Judge is to make a determination if the department’s actions were correct under policy and procedure at the time the department made the determination. This Administrative Law Judge cannot find that the department deviated from its policy and procedure in processing claimant’s case. Thus, this Administrative Law Judge must uphold the department’s denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial in this matter is UPHELD.

_____/s/_____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 18, 2009

Date Mailed: December 21, 2009

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 mailing date of the rehearing decision.

JS/cv

cc:

