

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: 2009-11078
Issue No: 6021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on December 12, 2008. After due notice, a telephone hearing was held on Thursday, April 29, 2010.

ISSUE

Whether the Department of Human Services properly denied the Claimant's request for Child Development and Care (CDC) benefits?

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 applied for CDC benefits for childcare beginning May 27, 2008.
- (2) The childcare provider is the great-aunt of the Claimant's child, who provides childcare in her home for several children.

(3) The Claimant withdrew her child from childcare on December 12, 2008 because neither her nor the childcare provider had received any CDC payments.

(4) The Department received the Claimant's request for a hearing, protesting the denial of CDC benefits.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Clients have the right to choose where the care will be provided as well as the type of childcare provider they wish to use. A relative care provider is related to the child needing care by blood, marriage or adoption as a:

- Grandparent/step-grandparent/great-grandparent/step-great-grandparent.
- Aunt/step-aunt/great-aunt/step-great-aunt.
- Uncle/step-uncle/great-uncle/step-great-uncle.
- Sibling/step-sibling.

A relative care provider provides care in the relative's home, and does not live in the same home as the child. BEM 704. Within 6 workdays of receiving the Relative Care Provider Application, the Department must determine eligibility of the provider applicant. BEM 704.

In this case, the Claimant applied for assistance to provide childcare for her son. The childcare provider chosen by the Claimant is the great-aunt of her son, who provided childcare for the Claimant's son, as well as other children from within her home. However, the Department excluded great-aunt was from definition of a relative care provider on April 4, 1999. PPB 1999-004.

Since the childcare provider chosen by the Claimant no longer meets the requirements to provide in home care for the Claimant's son under the CDC program, the Department was justified in its denial of the Claimant's application. Unfortunately, the Department's failure to meet any standard of promptness in its denial of the Claimant's application caused her to incur over six months of childcare expenses before the Department finally gave notice to find alternate childcare. However, any remedy for the Department's failure to act in a reasonable period falls outside the jurisdiction of this Administrative Law Judge. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

In conclusion, the Department established that it acted in accordance with policy determining Claimant's CDC eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's eligibility for CDC benefits.

The Department's CDC eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 5, 2010

Date Mailed: May 6, 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 60 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.

KS/vc

cc:

