

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: 2009-13514

Issue No: 6015

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 11, 2010

Montcalm 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 January 8, 2009. After due notice, a telephone hearing was held on Tuesday, May 11, 2010.

A second request for a hearing was received on May 22, 2009. This request was initially processed as a duplicate request to the issues presented in the hearing request received on January 8, 2009, but is actually a separate hearing request protesting an additional application for benefits. The Claimant requested a hearing on her claim that the Department of Human Service's failed to act on an application for Child Development and Care benefits for daycare services received from May 28, 2008, through February 17, 2009. However, the Claimant failed to request her hearing until May 22, 2009. Clients have the right to contest any Department of Human Service (Department) action affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600, p. 1. Clients may contest the Departments action by requesting a hearing within 90 days of that action. MAC R 400.904(4). Therefore, this portion

of the Claimant's request for a hearing is dismissed because this Administrative Law Judge had no jurisdiction to issue a decision on this issue.

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's application 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 on August 8, 2008. Department Exhibit 2.
- (2) The Department sent the Claimant a Verification Checklist on December 8, 2008, with a due date of December 18, 2008. Department Exhibit 1.
- (3) On December 18, 2009, the Department denied the Claimant's request for CDC benefits. Department Exhibit 4.
- (4) The Department received the Claimant's request for a hearing on January 8, 2009, protesting 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 (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 must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. BAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130, p. 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130, p. 1. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130, p. 1. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130, p. 2.

Clients are allowed 10 calendar days (or other time limited specified in policy) to provide the verifications requested by the Department. BAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. BAM 130, p. 4. A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client had not made a reasonable effort to provide it. BAM 130, p. 4.

The Department sent the Claimant a Verification Checklist on December 8, 2008, with a due of December 18, 2008. This form contains notice that failure to return the requested verification documents may result in denial of benefits. On December 18, 2008, the Department

had not received the verification documents listed on the Verification Checklist and denied the Claimant's CDC application.

The Claimant testified that she did cooperate during the application process. She provided a copy of a note from her childcare provider dated November 26, 2008, which documents a call from her caseworker. The message from the caseworker is that the holdup with the CDC application was her fault, and that it would be resolved the following week. However, this note is not evidence that the Claimant made a reasonable effort to verify her income, and without this verification the CDC application could not be approved.

The Claimant testified that when the Department sent the Verification Checklist on December 8, 2008, she had been waiting for a determination on her CDC application for four months. The Claimant argued that the Department's denial of her CDC application ten days later is unnecessarily harsh as applied to her situation. However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, 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).

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 CDC eligibility.

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 20, 2010

Date Mailed: May 21, 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:

A large black rectangular redaction box covering several lines of text in the distribution list.