

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: 2009-16690
Issue No: 6021
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 4, 2010
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 February 4, 2010. Claimant and her husband personally appeared and testified.

ISSUE

Did the department correctly determine the number of hours claimant was entitled to receive Child Development and Care (CDC) payments for?

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 was a CDC recipient when the local county DHS office received an audit regarding DHS Central Office review of her case. Claimant was working and her husband was attending school in another town and staying in that town during the week.

2. Claimant was being allowed 90 hours a pay period in CDC payments. Auditor however stated that since claimant's household is a 2 parent household, only the hours when both parents are not available, i.e. when the father is attending class and the mother is working, can be allowed for CDC payment.

3. Local county caseworker then determined that claimant's husband and father of the children attends classes in another town for a total of 19 hours per week. The total allowable CDC hours were reduced from 90 to 50 hours a pay period.

4. Department took action to reduce CDC allowable hours in February, 2009. Claimant requested a hearing on February 11, 2009.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Departmental policy states:

CDC PROGRAM REQUIREMENTS

PROGRAM OVERVIEW

The goal of the Child Development and Care (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 Michigan families.

The Department of Human Services (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, Item 703, p. 1.

INTRODUCTION

Eligibility for Child Development and Care services exists when the Department has established **all** of the following:

- . There is a **signed application** requesting CDC services, **and**
- . each parent/substitute parent (see Parent/Substitute Parent section in this item) is a member of a valid **ELIGIBILITY GROUP, and**
- . each parent/substitute parent (P/SP) meets the **NEED (Reason)** criteria as outlined in this item, **and**
- . an eligible provider is providing the care, **and**
- . all eligibility requirements are met. BEM, Item 703, p. 1

NEED

There are four CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

- . Family Preservation
- . High school completion
- . An approved activity
- . Employment BEM, Item 703, p. 3

Consider the following when determining the number of hours of care to authorize:

- . Meal periods during the working day
- . Travel time from the child care provider to and from the place of employment, education or family preservation

- . Holidays and absences BEM, Item 703, p. 4.

Claimant is employed. Claimant's husband attend school in another town 1.5 hours one way from their home, and due to the length of the commute stays in that town during the week. DHS auditor stated that it is the husband's choice to stay in another town all week, and that choice does not allow the family more CDC hours than policy supports. Claimant's husband attends classes 22 hours per week, Monday through Friday, and his commute time if he does so every day would amount to 15 hours per week. While it is understandable that the department would not allow extra hours of CDC payments because claimant's husband stays in another town during the week, claimant should be allowed CDC hours for the husband's class and commute time, total of 37 hours per week, 75 hours a pay period.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly determined the number of hours claimant was entitled to receive CDC payments for.

Accordingly, department's action is REVERSED. Department shall:

1. Recompute claimant's CDC budgets allowing for 75 hours a pay period.
2. Issue the claimant any CDC payments she did not receive but was entitled to receive, if that is found to be the case.
3. Notify the claimant in writing of department's determination.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

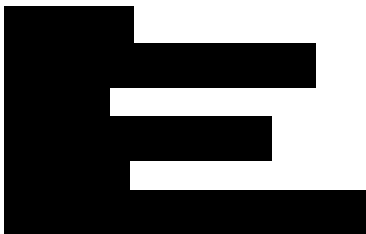
Date Signed: April 6, 2010

Date Mailed: April 7, 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.

cc:

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