

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 2999
Issue No: 6000, 6027
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 26, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing. After due notice, a telephone hearing was conducted by the undersigned in Detroit, Michigan on April 26, 2010. The Claimant was present and testified. Janine Parham, FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly closed the Claimant's Child Development and Care (CDC) case ?

FINDINGS OF FACT

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

1. The Claimant applied for the Child Development and Care (CDC) Assistance Program in July 2008. The Claimant was deemed eligible for CDC benefits.
2. At some point, the Claimant was advised that her older daughter, who was her childcare provider, was not certified due to a criminal background problem. The

Claimant was advised by the Department to obtain a letter from the Michigan State Police to clear her daughter of any wrong doing.

3. The Claimant reported to her worker that she had obtained the requested document but could not get a response.
4. The Claimant's CDC case was closed but the date is unknown.
5. The Department did not have the Claimant's CDC file at the hearing as the cases are sent off site when closed. The Department could not access information from its computer system because the case closure was from 2008.
6. During the hearing, the Department could not say why the Department closed the Claimant's CDC case.
7. The Claimant was never advised by the Department to obtain a different childcare provider.
8. The Claimant requested a hearing on October 7, 2008 advising that the Department had not taken any action and that her application was not processed and that no application had been received in Lansing. The Claimant had been told her application for CDC benefits would be processed but it was not.

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 Program Reference Manual (PRM).

In this matter, the Department did not have the benefit of the Claimant's file and the original assigned worker was off on medical leave at the time of the hearing. The Department had no first hand knowledge about what occurred in this matter. This is a very old claim dating back to 2008. The Claimant, on the other hand, testified credibly that she was aware that her daughter had not been approved to provide childcare services but was told to obtain a State Police Clearance with regard to her daughter's issue. The Claimant did obtain the letter but did not submit it to the Department as no one returned her calls. Additionally, the Claimant testified credibly that no one told her to select another childcare provider in the interim. The Claimant had no idea why and when her case had been denied.

The hearing officer is aware that CDC recipients cannot request a hearing regarding provider/applicant termination or denial. BEM 704 page 8. The Department is required to register such a provider and obtain clearances. If denied clearance, a provider can request administrative review to remove the closure reason. BEM 704 page 10, 11. In this matter, the Claimant's request for a hearing is not construed as a request for a hearing regarding the provider's certification, but rather a hearing with regard to the status of her application and lack of response to her inquiries and attempts to provide information to the Department.

Based on the record presented by the Department at the hearing and its inability to reconstruct what occurred in this matter, it is found that the Department's Action must be reversed.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that the Department's closure of the Claimant's CDC case is REVERSED.

Accordingly, it is ORDERED;

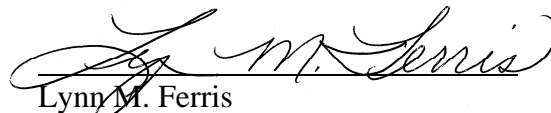
The Department shall reopen and reinstate the Claimant's CDC application retroactive to the date of application in July 2008.

The Claimant shall have ten days from the date of the receipt of this Decision and Order to resubmit to the Department the information regarding the claimant's provider, including the letter from the Michigan State Police she obtained on behalf of her daughter at the request of the Department.

Upon receipt of the letter from the Claimant, the Department shall make a determination whether the provider can be certified, based upon the information and the required procedures contained in Department Policy, and shall follow policy with regard to its responsibilities to obtain the necessary clearances as required by Policy.

If the Department determines the provider is eligible, the Department shall provide CDC benefits retroactively for the period beginning July 1, 2008 through March 9, 2009. However, the CDC benefits, if any, shall begin based upon the date of the Michigan State Police letter of clearance.

If the Claimant does not provide the Department the Michigan State Police letter of clearance or the provider cannot be certified, the Department shall not be otherwise required to take further action, and the closure of the Claimant's case will stand and remain in effect.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/07/10

Date Mailed: 06/08/10

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.

LMF/dj

cc:

