

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: 2009-512
Issue No: 1017, 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 8, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 8, 2009. The Claimant appeared and testified. Glenda Richardson, FIS, appeared on behalf of the Department.

ISSUES

Whether the Department properly denied CDC benefits effective 6/19/08?

Whether the Department properly closed Claimant's FIP case on 10/20/08 for failure to turn in redetermination packet?

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 is the legal guardian of her nephew.
2. Claimant applied for FIP and CDC benefits on behalf of her nephew.

3. Claimant was initially denied based on excess income.

4. A hearing regarding the denial was held on 3/27/08. On 4/3/08, Judge Rairigh Ordered that the Department reprocess the Claimant's FIP and CDC applications for the nephew only without consideration of Claimant's assets or income.

5. The FIP benefits were recalculated and Claimant was issued back FIP benefits.

6. On October 6, 2008, the Department mailed Claimant a FIP redetermination packet including a notice to attend an interview on 10/16/08. The packet/notice was mailed to the listed address in the system on [REDACTED] Street. The verification checklist also requested verification of Claimant's income and assets.

7. Claimant testified that she had moved and, therefore, received the redetermination packet late. Claimant further testified that she called the Department and indicated that she had just received the packet. Claimant objected to providing verification of her income and assets as, per the 4/3/08 Order, they were not to be considered in determination of benefits for Claimant's nephew's case.

8. The Department closed Claimant's FIP case on October 20, 2008 due to failure to return the verifications or show at the 10/16/08 interview. (Exhibit 1, p. 3).

9. Following the 4/3/08 Order, the Department reopened Claimant's CDC case, but the CDC provider was denied back payments because the CDC provider was not providing the care at the customer's home and he was not a resident relative care provider of the child.

10. Claimant testified that her son has been providing the care since 6/2008 in his home and before that the care was provided by a non-relative friend in her home.

11. The Department closed Claimant's CDC case on 7/8/08.

12. On September 16, 2008 and on October 28, 2008, the Department received the Claimant's Requests for Hearing protesting the cancellation of her CDC and FIP benefits.

CONCLUSIONS OF LAW

A. FIP Benefits

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. PAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. PAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. PAM 130, p. 6.

In this case, the Claimant testified that she contacted the Department as soon as she received the FIP redetermination packet. However, Claimant was not provided with any additional time to comply with the Department's request per PAM 130. Furthermore, Claimant correctly relied on a previous Order in her refusal to provide her personal income or asset information. The Administrative Law Judge finds that the Department closed Claimant's FIP case in error.

Accordingly, the Department's FIP closure is REVERSED.

B. CDC Benefits

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In order for DHS to pay CDC benefits, care must be provided in Michigan by an eligible provider. Eligible providers are those regulated by DHS, Bureau of Children and Adult Licensing (BCAL), or enrolled by DHS. Those regulated by the BCAL are child care centers, family child care homes, and group child care homes. The Department also recognizes two other types of providers who are not required to be regulated. These providers are enrolled by DHS to provide Child Development and Care services. They are day care aides and relative care providers. PAM 704.

A day care aide is an individual, including a relative who provides care in the home where the child lives. 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 or 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. Relative status must be verified if questionable. PAM 704, p. 3.

In this case, Claimant's relative child care provider is related to the Claimant, but not to the child as required by the regulations. Contrary to the requirements of the relative care provider requirements, the care was not provided in the child's home. Furthermore, Claimant did not assert that the child care provider was providing care in a licensed child care center. While the undersigned does not necessarily agree with policy, this Administrative Law Judge finds that the Department applied it correctly.

Accordingly, the Department's denial of CDC benefits is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FIP case on 10/20/08.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied Claimant's CDC benefits.

Accordingly, it is ORDERED:

1. The Department is ordered to reopen and process Claimant's FIP case from the date of closure, 10/20/08, delete any negative action and supplement the Claimant with any lost benefits she was otherwise entitled to receive.

2. The Department shall not consider or request Claimant's income or asset verification unless Claimant is requesting FIP benefits for herself as well as the minor child.
3. The Department's decision to deny CDC benefits as of 7/8/08 due to provider not being a relative care provider, providing care in the child's home, is AFFIRMED.

/s/ _____
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/18/09

Date Mailed: 06/22/09

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.

JV/dj

cc:

