

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No. 20106555
Issue No. 6015
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: July 28, 2010
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 held on Wednesday, July 28, 2010. The claimant personally appeared and testified on her own behalf.

ISSUE

Did the department properly determine the eligibility begin date for the claimant as a CDC daycare provider?

FINDINGS OF FACT

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

1. On March 10, 2009, the claimant enrolled to be a CDC provider in Van Buren County, which was subsequently denied. Department Exhibit 1.
2. On June 3, 2009, the claimant applied to be a Berrien County provider, but Berrien County could not enroll the claimant as a CDC provider due to the previous denial. Department
3. On September 25, 2009, the department informed the claimant that she would need to request an administrative review in order to be enrolled as a daycare provider. Department Exhibit 2- 3.

4. On September 29, 2009, the claimant filed a request for an administrative review.
5. On October 27, 2009, the department received a hearing request from the claimant, contesting the department's negative action.
6. On February 4, 2010, the claimant was approved based on administrative review effective January 1, 2010 with retroactive benefits to her September 29, 2009 request for administrative review file date.

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

DHS-2032A and DHS-2032B

Once the completed [DHS-2032A](#) or [DHS-2032B](#) is returned to the specialist and the information is reviewed and completed, the provider may be enrolled on Provider Management using the DHS-2351(X) see Provider Management. The effective date of enrollment should be the date care began or the date the client became eligible for CDC, whichever is latest. If it is questionable as to whether or not the centers or homes are indeed exempt from licensure, they should be referred to BCAL for a determination.

To be eligible to receive DHS payment, child care centers and homes who meet the above criteria to be exempt from licensure must:

- Complete a [DHS-2032A](#) or [DHS-2032B](#).
- Have a valid tax ID or Social Security number.
- Be enrolled by the department.

An unlicensed CDC provider inquiry is used to determine the status of these exempt centers and homes. The eligibility end date should be blank when the provider is active in Provider Management. P. 3.

Within 6 workdays of receiving the DHS-220-A/R the local office must:

- Review the provider application to determine if the provider applicant has self reported a crime.
- Complete all background clearances (central registry, ICHAT, OTIS, PSOR, NSOPR, FIL).
- Determine eligibility of the provider applicant.
- Enroll the provider in Provider Management. (See the DHS Net for the [Provider Management](#) training).
 - If the provider is eligible to be enrolled, Bridges will send a DHS-4481-D, CDC Unlicensed Provider Confirmation, to the provider and a DHS-1605, Notice of Case Action, to the client. Once the provider is authorized to provide care, Bridges will send the DHS-198 Child Development and Care Provider Certificate/Notice of Authorization to the provider. The client will receive a DHS-198-C, Child Development and Care Client Certificate/Notice of Authorization.
 - If the provider is not eligible the local office must send the DHS-4807, Notice of Child Care Provider Eligibility, to the client and provider applicant informing the client and applicant of the denial. If the denial is a result of a match on ICHAT, OTIS, PSOR, NSOPR or FIL, the provider must also be sent a DHS-759, Request for Administrative Review of the Denial or Termination of Provider Enrollment and copies of the match or matches. **Do not send central registry information.** Pgs. 4 and 5.

ADMINISTRATIVE REVIEW PROCESS

Providers or applicants whose enrollment is denied or terminated as a result of a criminal conviction or pending crime may request an administrative review. The DHS-759

instructs providers to send all documentation to the local DHS office where the denial or termination took place.

When a request for administrative review is received, the local office should:

- Give the administrative review request to the local office person who maintains the provider files.
- The provider file should be pulled and any information regarding the provider's denial or termination, such as the DHS-220-A/R, background clearances, provider identification should be attached to the administrative review material.
- All administrative review material must be either faxed to CDC in central office at 517-241-8679 or sent by ID mail to:

Child Development and Care
Central Office, Grand Tower
235 S. Grand Ave. Suite 1512
Lansing, MI

Central office will make a determination as to whether to approve or deny the request.

If an administrative review determines a provider/applicant to be eligible, CDC will:

- Remove the closure reason.
- Notify the provider/applicant of the approval reinstatement.

A new DHS-220-A/R and a DHS-4025, Child Care Provider Verification, is required prior to the local office entering authorizations for a provider/ applicant determined to be eligible by an administrative review.

If the provider's administrative review request is denied, central office will send a letter to the provider.

Note: Neither child care providers or CDC recipients are entitled to DHS administrative hearings based on provider/applicant termination or denial. Pgs 9 and 10.

In the instant case, the claimant had previously been denied as a CDC provider on March 6, 2009 in Van Buren County. Subsequently, the claimant reapplied in Berrien County on June 3, 2009 which resulted in a denial by Berrien County on September 25, 2009 because the claimant had a previously denied CDC application in another county. The claimant's June 3, 2009 CDC application was not processed by the county until September 25, 2009. The department is required by policy to within six work days to determine eligibility of the provider applicant. CDC Providers, BEM 704, pgs. 4 and 5. The county took over 90 days to process the claimant's application.

Once the claimant on September 25, 2009 received the department's denial, she subsequently on September 29, 2009 filed a timely request for a review. The claimant had previously been ineligible because a member in her household who died in [REDACTED] so if the department had processed her application timely on June 3, 2009, she would have been able to file the request for an administrative review.

Therefore, the department has not established that it was acting in compliance with department policy by determining that the claimant was not eligible to be a CDC provider retroactive to her application date of June 3, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not timely process the claimant's June 3, 2009 application.

Accordingly, the department's decision is **REVERSED**. The claimant is eligible for CDC benefits retroactive to her June 3, 2009 application.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: September 30, 2010

Date Mailed: October 1, 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.

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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.

CGF / vc

cc:

