

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

IN THE MATTER OF:



Reg. No.: 2010-45905
Issue No.: 1002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 21, 2010
DHS County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 21, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services.

ISSUE

Whether Claimant is entitled to Child Development and Care (CDC) benefits?

FINDINGS OF FACT

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

1. Since 2005, Claimant has been a recipient of CDC benefits for herself, her two biological children, and various foster children who lived with her at one time or another.
2. On September 15, 2009, DHS issued a Redetermination Notice to Claimant.
3. On October 16, 2009, two foster children, [REDACTED], came to live with Claimant.
4. On October 28, 2009, Claimant submitted her Redetermination Application.
5. Claimant's Redetermination Application contained the names of her two biological children but it mistakenly omitted the names of the two foster children.

6. On or about February 23, 2010, DHS reviewed Claimant's Application and determined she was over the income limit for receipt of continued CDC benefits for herself and her two biological children.
7. On or before May 4, 2010, DHS notified Claimant she was denied CDC benefits.
8. On May 4, 2010, Claimant submitted documentation to DHS establishing the presence of the two foster children in her home from October 16, 2009-January 29, 2010.
9. On May 4, 2010 Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. 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. DHS provides services to adults and children pursuant to MCL 400.14(1) and Michigan Administrative Code Rules 400.5001-400.5015. DHS policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

In this case, I must decide whether Claimant's Redetermination was processed properly. I consider first whether the DHS manuals provide legal authority I must consider as well. DHS cited BAM 210, "Redetermination," and BEM 205, "CDC Group Composition," to the Administrative Law Judge, and I will first consider these two sources.

BEM 205, "CDC Composition," sets forth how the family group is to be counted. BEM 205 requires that the applicant shall be the person who signs the application, the person must live with the children in question, and the person must have some responsibility for the child's care, such as being a foster parent. BEM 205.

I find in this case there is no dispute that Claimant is a proper applicant, and that if Claimant had listed the two foster children on the Application, Claimant's Application would not have been denied on the basis that the children were not her legal responsibility. I find that no violation of BEM 205 has occurred. *Id.*

The next Item cited by DHS is BAM 210, "Redetermination," which provides a procedure for an annual eligibility review for every client. The Redetermination process requires DHS to "[r]eview, document and verify eligibility factors as required." There is no

standard of promptness in BAM 210 for DHS to process a CDC Redetermination Application. However, if the client provides documentation in a timely fashion, BAM 210 requires DHS to log the client's response into the file to avoid a case closure. BAM 210, pp. 1, 7, 10.

Based on my findings of fact and all of the evidence and testimony in the record, I find that DHS complied with the requirements of BAM 210. Having examined the legal responsibility of DHS in the two manual sections DHS cited, I consider whether there are any other requirements DHS has in this situation.

I have found two other DHS manual sections which, I believe, are applicable in this case. First, BAM 600, "Hearings," is the manual section in which the hearing procedure is set forth. This section begins as follows:

HEARINGS

DEPARTMENT POLICY

All Programs

Clients have the right to contest a department decision affecting eligibility or benefits levels whenever they believe the decision is incorrect. The department provides an administrative hearing to review the decision and determine its appropriateness. This item includes procedures to meet the minimum requirements for a fair hearing.

Efforts to clarify and resolve the client's concerns must start when the hearing request is received and continue through the day of the hearing. BAM 600, p. 1 of 34 (bold print in original).

I determine and conclude that DHS failed to follow this policy in that they failed to accept Claimant's May 4 verification of the two foster children in her home. I find that this failure is a failure to clarify and resolve the client's concerns before the hearing. I determine that a client error is an event that can be corrected, and that, in this case, DHS on May 4 did not accept the correct information and make the requisite change.

DHS' failure to recognize and make the correction violates another manual section, BAM 105, "Rights and Responsibilities." This section states:

RIGHTS AND RESPONSIBILITIES

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- Determine eligibility
- Calculate the level of benefits.
- Protect client rights.


BAM 105, p. 1 of 13.

I find and conclude that DHS failed to protect Claimant's rights when it failed to accept a valid correction of an honest error. I believe that is what happened in this case.

Having analyzed the facts and the applicable law, I decide that DHS acted erroneously and shall be REVERSED. DHS is ORDERED to conduct a Redetermination process for Claimant, taking into full consideration the verification of the two foster children in Claimant's home from October 16, 2009-January 29, 2009, and recalculating her income and eligibility for CDC benefits in accordance with all DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the findings of fact and conclusions of law above, decides that DHS shall be REVERSED. DHS is ORDERED to reinstitute a Redetermination proceeding for Claimant retroactive to October 31, 2009, or other appropriate date, give full consideration to Claimant's verification of two foster children in her care, recalculate her income and eligibility for CDC benefits, and process the Redetermination Application in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 25, 2010

Date Mailed: October 25, 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.

JL/pf

cc:

