

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-47304
Issue No.: 6027
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 4, 2010
DHS County: Wayne (76)

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 November 4, 2010. Claimant appeared and testified. [REDACTED]

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's application for 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. On April 9, 2010, Claimant applied for CDC benefits with DHS.
2. DHS directed Claimant to present documentation by April 23, 2010, to support her application.
3. On or before April 23, 2010, Claimant twice presented documentation, including check stubs and her foster care license, in person to DHS.
4. DHS failed to maintain custody of the documents and misplaced or lost Claimant's documents.

5. On May 24, 2010 DHS denied Claimant's CDC application for the reason that she "failed to provide the Department with information needed to determine eligibility."
6. On May 26, 2010, Claimant filed a hearing request notice 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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

I have reviewed all of the evidence and testimony in this case in reaching my decision. I have also reviewed the manual Items that apply to this case. I determine that the relevant manual Item in this case is BAM Item 105, "Rights and Responsibilities." This manual Item sets forth DHS' policy as to what rights the clients have when they use the benefits programs and what responsibilities they and the Department have in regard to each other.

DHS' Policy is at the very beginning of BAM 105, and 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 (bold print in original).

I find and determine that the third DHS requirement, the requirement to protect client rights, was not fulfilled in this case, because misplacing or losing documents is not adequate protection of client rights. I find that when this requirement is not observed, DHS has failed to follow its own policy. As this has happened in this case, there is DHS error, and DHS is REVERSED.

DHS is ORDERED to reopen and reprocess Claimant's application, allowing sufficient opportunity for receipt and consideration of all documentation in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's CDC application in accordance with this decision and all DHS policies and procedures.



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

Date Signed: November 9, 2010

Date Mailed: November 9, 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.

2010-47304/JL

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:

