

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

IN THE MATTER OF:



Reg. No.: 2010-49540
Issue No.: 6000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 2010
DHS County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing regarding her eligibility for payment as a Child Development and Care (CDC) provider. After due notice, a hearing was held on November 17, 2010. Claimant appeared and testified.

ISSUE

Does a CDC provider have standing to request a hearing when she protests the Department of Human Services' (department) determination that she is not an eligible provider?

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 mother of D. H. and has been providing child daycare services for D. H.'s minor child, claimant's grandchild.
2. On March 29, 2010, claimant's daughter, D. H., applied for CDC for her minor child.
3. Thereafter, the department found D. H. to be eligible for CDC payments.
4. The department has declined to pay claimant as a CDC provider for her grandchild because claimant has not completed mandatory training. ["Providers are not eligible for payment for care provided prior to the pay period that holds the training completion date." BEM Item 704, p. 5.]

5. On July 1, 2010, claimant filed a hearing request to protest the department's refusal to pay her as a CDC provider.

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 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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this matter, claimant's daughter, D. H., was the applicant for CDC benefits. Her application for CDC was approved by the department. In order for CDC payments to be made, D. H. is responsible for securing a provider who is eligible for CDC payments. Claimant is not eligible because she has not completed mandatory training.

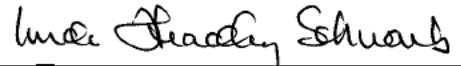
According to Administrative Rule 400.903, State Office of Administrative Hearings and Rules may only grant a hearing if an applicant's claim for assistance is denied or is not acted upon within reasonable promptness or if a recipient is aggrieved by a departmental action resulting in a suspension, reduction, discontinuance, or termination of assistance. In this matter, claimant has not filed a claim for assistance with the department. Per Administrative Rule 903, claimant has no standing to request a hearing. Further, per policy, a childcare provider is not entitled to an administrative hearing when the department finds that the provider is not eligible for CDC payments. BEM Item 704, p. 10.

Since claimant, as a CDC provider, is not eligible for a hearing, the undersigned has no authority to issue a determination in this matter. Accordingly, the request for hearing is hereby dismissed. See MAC R 400.906 and 400.903.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that a Child Development and Care provider does not have standing to request a hearing to protest the Department of Human Services' determination that she is not an eligible CDC provider.

Accordingly, this matter is hereby dismissed.



Linda Steadley Schwarb
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 17, 2010

Date Mailed: November 18, 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.

LSS/pf

cc:

