

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.: 2010-50805
Issue No.: 1000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 22, 2010
DHS County: Wayne (43)

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 [REDACTED] request for a hearing. After due notice, a telephone hearing was held on November 22, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's Child Development and Care (CDC) benefits application?

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. In 2009, Claimant applied for CDC benefits.
2. On June 15, 2010, DHS denied Claimant's CDC application for the reason that she failed to cooperate with paternity and child support enforcement procedures.
3. On July 16, 2010, Claimant filed a request for hearing notice with DHS.
4. At the hearing on November 22, 2010, DHS and Claimant indicated to the Administrative Law Judge that the noncompliance issue was resolved and will not be presented as an issue at the hearing.

5. At the November 22, 2010, hearing, it was discovered that Claimant's child care provider, her mother, [REDACTED], has not received background clearance.
6. [REDACTED] request for background clearance is pending at this time.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. 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 (RFT). The manuals are available online at www.michigan.gov/dhs-manuals.

The manuals contain all the policy and procedural requirements for DHS' activity, and I turn to the manuals to determine the rights and responsibilities of the parties in this matter. The manual section that sets forth the requirements of the parties in this case is BEM 704, "CDC Providers."

"CDC Providers," BEM 704, states as follows with regard to background clearance:

Background Clearances

Before enrolling an aide or relative care provider, a central registry check and criminal history background clearances must be completed on all aides, relative care providers and adults, age 18 and over, living in the relative care provider's home.

...

Central Registry (CR) Check at Provider Application

Complete a central registry check first. If a valid match is found, no further clearances need to be completed.

Central Registry Match

Deny or terminate the aide or relative care provider's enrollment if central registry clearance indicates a valid match. BEM 704, pp. 5-6.

I find and determine that BEM 704 is applicable in this case and does require that Claimant's provider must not be enrolled as a provider unless and until she receives background clearance. Claimant's CDC Provider Application has not been granted or denied, because DHS awaits the outcome of the clearance procedure. At this time, Claimant's application is pending and DHS has taken no action. I determine, therefore, that there is no dispute between the parties at this time and there is no issue before me which requires a decision. I have no jurisdiction to decide any issue in the case as it now stands. This case, therefore, is DISMISSED for lack of jurisdiction. DHS need take no further action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that she has no jurisdiction in this case as DHS has not taken an action requiring consideration. This case is DISMISSED for lack of jurisdiction. DHS need take no further action in this matter.



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

Date Signed: November 23, 2010

Date Mailed: November 23, 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.

JL/pf

cc:

