

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2010-8216
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 10, 2010
Wayne County DHS (58)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37, and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on June 10, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied 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 September 3, 2009, Claimant applied for CDC benefits.

2. On September 3, 2009, Claimant submitted, along with her application, the Child Care Provider Verification Form DHS-4025 and the Verification of Employment Form DHS-38.
3. On September 16, 2009, DHS denied Claimant's CDC application because she failed to provide information to determine eligibility as required by Bridges Administrative Manual (BAM) Item 130.
4. On September 18, 2009, Claimant filed a request for hearing.

CONCLUSIONS OF LAW

CDC was 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. DHS provides CDC services to adults and children pursuant to Michigan Compiled Laws Sections 400.14(1) and Michigan Administrative Code Rules 400.5001-5015. DHS policies and procedures are set forth in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov/dhs-manuals.

In this case, DHS cites BAM Item 130 as the basis for its negative action, stating in its Denial Notice, "You are NOT eligible for: Child Development and Care: You failed to provide DHS with information needed to determine eligibility. BAM 130." I will look first to this manual section and examine whether DHS' action was in accordance with the policy they used to deny CDC benefits in this case. Department Exhibit 1, p. 2, reverse side.

BAM 130, "Verification and Collateral Contacts," defines the term "verification" in the very first paragraph of the first section, which is entitled, "Department Policy – All Programs:

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements." Verification is required only if one of three situations exist: (1) it is required by policy, (2) it is permitted by a local office option that is applied in the same manner for every client, or, (3) the information at hand is "unclear, inconsistent, incomplete or contradictory. The questionable information might be from the client or a third party." BAM 130, p. 1 (effective 8/1/08).

Looking first to see if verification is required by policy, the first of the three situations in which verification is necessary, I turn to BEM 703, "CDC Program Requirements," a manual section which DHS cited as additional authority for its action at the hearing. In the paragraph titled, "Tools to Verify Need Based on Employment," it states that Form DHS-38, Verification of Employment, completed by the employer, is sufficient to verify the "**need** for CDC based on employment." (bold print in original). BEM 703, p. 11 (effective 4/1/09).

In this case, I have found as fact that Claimant submitted a DHS-38 at the time of her application, and I conclude that, as Claimant submitted the correct form, there was no policy requiring DHS to go further to verify her need for CDC benefits. BAM 130 does not require DHS representatives to make phone calls to employers. I find there is no policy requiring such an inquiry.

I next examine whether the phone call to the employer was appropriate pursuant to a local office policy applied equally to all clients. BAM 130, p. 1. At the hearing, DHS presented no local policy in writing or otherwise to justify the phone call to the employer after receipt of a DHS-38. Therefore, I find there is no local policy requiring DHS to contact the employer after a customer submits a DHS-38 from the employer. *Id.*

Finally, I will examine the third situation in which verification is required, which is when there is “unclear, inconsistent, incomplete or contradictory” information regarding an eligibility factor. I have examined Claimant’s statement of her need for CDC services and the DHS-38 from the employer. I find that the sole arguable inconsistency is that Claimant states she needs childcare “all day M-Sun,” and the employer states that the hours of employment are Sunday 11-6, Monday-Wednesday 8 a.m.-12 p.m., Thursday 3-11, Friday 3-11, and Saturday 2-12. Although Claimant’s statement is generalized and the employer’s statement is specific, I conclude that the language in these documents is sufficient to establish Claimant’s *need* for childcare services. I conclude that both Claimant and the employer gave sufficient, clear, and essentially consistent information which does establish Claimant’s need for services.

The CDC application process is not meant to be a detailed inquiry into the employer’s scheduling needs and Claimant’s constantly changing hours for childcare based on the employer’s needs. I note in this context that Claimant is a temporary part-time employee and not a permanent employee, that she is a bartender and sometimes answers the phones. At the hearing, Claimant clarified that the bartending work occurs in the daytime as well as at evening events. I find this credible and unrebutted testimony supports the documentation in this case regarding the erratic nature of Claimant’s hours of work. Department Exhibit 1, pp. 4-5, 8-9.

I, therefore, determine there was no requirement in DHS policy or procedure that verification of need was necessary beyond what Claimant provided with regard to employment.

Next I will consider whether further verification of need was required with regard to [REDACTED], the childcare provider. Claimant submitted a Child Care Provider Verification, DHS-4025, with her application. Applying the procedures for determining whether Claimant’s need must be verified beyond this, I return to the Department Policy section of BAM 130. I find

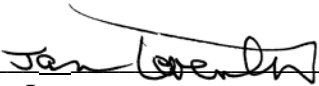
there is no requirement in policy that DHS contact the provider, I find there is no local policy requirement, and I find nothing inconsistent on the provider verification form. I conclude that DHS' phone call to the provider was not a requirement and was not necessary in order to determine Claimant's *need* for childcare services. *Id.*, p. 7; BAM 130, p. 1.

While it may later become important, for a specific date and time for which Claimant later requests CDC money, to verify the hours childcare is provided and the Claimant's actual hours of work, I do not believe that the application process requires this information. I determine that the language and the intent of the application process is to make the process as simple and fast as possible in order to provide timely help to qualified persons in need of assistance.

I conclude that Claimant's application and the two verifications meet the stated requirements of DHS policy and procedure. I conclude she is entitled to CDC benefits effective September 3, 2009, and the DHS' negative action must be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' action was erroneous and shall be REVERSED. DHS shall initiate Claimant's CDC benefits beginning September 3, 2009.



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

Date Signed: June 14, 2010

Date Mailed: June 15, 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:

