

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.: 201010128
Issue No.: 6000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 23, 2010
Office: Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 23, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether the undersigned has jurisdiction to hear an appeal of a denial of Claimant's choice of Child and Development Care (CDC) 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 was an active CDC recipient.
2. On 4/16/09, DHS determined that Claimant's CDC provider, [REDACTED] (also, Claimant's mother) was no longer eligible to be a CDC provider due to a criminal history.
3. Claimant's CDC provider was mailed a notice of the CDC decision indicating that she was no longer eligible to receive CDC payments from the State of Michigan.
4. The notice that Claimant's CDC provider received included instructions for disputing inaccuracies within the report.

5. Despite the notice revoking her CDC provider eligibility, [REDACTED] continued to provide CDC services to Claimant.
6. On 10/2/09, Claimant requesting a hearing concerning the denial of her mother 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 of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the present case, Claimant and her CDC provider (also Claimant's mother) are appealing a DHS determination which revoked Claimant's mother's status as an authorized CDC provider. The basis for the CDC revocation was a criminal charge against Claimant's mother from 1995.

BEM 704 states the DHS policy for hearings involving issues of CDC provider eligibility, "Neither child care providers or CDC recipients are entitled to DHS administrative hearings based on provider/applicant termination or denial." BEM 704 allows CDC providers to appeal terminations through an administrative process outside the administrative hearings process. Specifically, it reads, the DHS-759 instructs providers to send all documentation (regarding criminal history) to the local DHS office where the denial or termination took place. BEM 704 continues with instructions for DHS specialists to forward the documents to central office. The central office makes a determination to deny or approve the CDC provider's appeal request.

Claimant's mother took advantage of this process and was not barred from CDC payments due to criminal history as of 4/19/10. DHS indicated that Claimant's mother still had to complete a CDC provider training before she was authorized to receive CDC payments. The training was completed in 8/2010 and DHS indicated that Claimant's mother is currently eligible for CDC payments.

Claimant was not deprived of any benefits by DHS. Claimant could have selected a different CDC provider and received CDC benefits through the new CDC provider. Claimant chose not to do this. Also, Claimant's mother did not have to continue

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providing CDC care knowing that she was not authorized to receive CDC provider payments; yet, she continued to do so.

Both Claimant and her mother testified that her mother was authorized to receive CDC payments as a provider since 1995 and they cannot understand why the criminal history is now an issue. Though the lapse of time between the criminal conviction and the CDC provider revocation is inexplicable, it does not change the fact that there is no jurisdictional basis to appeal the matter within the administrative hearings process. It is found that the undersigned does not have jurisdiction to determine the correctness of the 4/2009 termination of Claimant's CDC provider's eligibility.

DECISION AND ORDER

Claimant's hearing request is DISMISSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant has failed to appeal an issue within the jurisdiction of the undersigned.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 27, 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.

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