

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.: 2010-33156
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: January 20, 2011
DHS County: Wayne (82-58)

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 January 20, 2011. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible 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 November 28, 2008, Claimant applied for CDC benefits.
2. On December 17, 2008, DHS denied Claimant's application.
3. On February 1, 2010, Claimant filed a hearing request with DHS.
4. Claimant's hearing request was filed fourteen months after DHS denied her application for CDC benefits.

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-.5015. DHS' policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.


The applicable manual item is BAM 600, "Hearings." This section states that the customer has ninety days from the date of the written notice of case action in which to request a hearing. In this case, Claimant requested a hearing February 1, 2010, fourteen months after her CDC application was denied. Clearly, Claimant's hearing request was not made within ninety days of the DHS denial.

At the hearing, Claimant did not present testimony to prove that she had a good cause for the delay, such as hospitalization. *Id.*, p. 18.

I have reviewed all of the evidence and testimony in this case as well as the applicable policy and procedure. I find and decide that Claimant's hearing request is untimely and DHS' denial is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant's hearing request is untimely. DHS is AFFIRMED. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 1, 2011

2010-33156/JL

Date Mailed: February 2, 2011

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:

