

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.: 2010-44045
Issue No.: 6021
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 28, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 October 28, 2010. The claimant appeared and testified. [REDACTED], ES and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

1. Is the Claimant entitled to a hearing regarding the reason her CDC provider is not receiving her check because of a State of Michigan Tax Offset?
2. Does the Administrative Law Judge have jurisdiction to hear this matter?

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 filed a request for hearing on April 19, 2010, to review why her CDC provider's checks were being held and why the provider was no longer receiving her CDC check due to a tax offset.
- (2) There was no negative action taken by the Department which caused the tax offset with regard to the provider's receipt of her check during the period in question. There was no negative action taken by the Department with regard to the Claimant's CDC benefits or eligibility; the Claimant was still eligible for CDC benefits during the period of her providers tax offset as the Claimant's CDC benefits had not been affected.

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).

Under Bridges Administrative Manual Item 600, clients have the right to contest any negative agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal.

The Claimant requested the hearing with regard to her CDC provider no longer receiving her checks. The Claimant's CDC benefits were still in effect notwithstanding the tax offset placed on the CDC provider's checks. Under these facts the Administrative Law Judge has no jurisdiction regarding the action complained of by the Claimant because it did not affect her benefits and no negative action had been taken by the Department with regards to the Claimant's CDC case.

BAM 600 states"

"SOAHR may grant a hearing about any of the following:

- denial of an application and/or supplemental payments
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits is denial of expedited service."

A tax offset is not a negative action; it is an action taken by the Department of the Treasury to capture fund it claims are owed to it for some tax liability owed by the CDC provider. It is not a departmental determination which affected the Claimant or her benefits. Claimant's benefits were not affected by any action taken by the Department of Human Services, therefore, this Administrative Law Judge cannot rule regarding the Tax Offset as there is no issue on which a hearing may be granted. BAM 600 id.

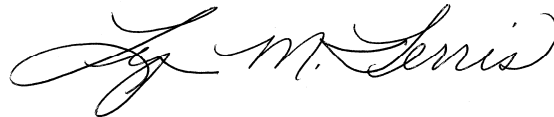
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As there was no negative Department action in regard to claimant's CDC case, and the tax offset is not an issue that can be heard or determined by the Administrative Law Judge. Claimant's request for hearing must be dismissed for lack of jurisdiction.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there is no jurisdiction to hear this case.

Accordingly, this case is hereby, DISMISSED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/03/2010

Date Mailed: 11/03/2010

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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