

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-47322
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 8, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 November 8, 2010. The claimant appeared and testified.

ISSUE

Did the Department properly close the Claimant's Child Care (CDC)?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On March 11, 2010, the claimant applied for CDC.
2. On May 13, 2010, the department denied the claimant's CDC application because a person with a criminal history, (charges or convictions) was a resident the proposed CDC provider's home.
3. On June 2, 2010, the Claimant filed a request for a hearing.

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)

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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 instant case the department denied the claimant's CDC case because the proposed CDC provider had a person with a criminal record or charges living in the home where the child care was to be provided.

Criminal History Match

If a match is found on any of the clearances, compare the crime code number of the conviction or pending criminal charge to the crime codes exhibit. If the code is listed, the provider enrollment must be denied or terminated. If a match is received on a crime code that is not listed and it is believed the crime could impact the health and safety of a child, email the Policy-CDC-DHS Policy-CDC mailbox with all pertinent information. A decision will be made as to whether this is a terminable crime.

Deny the provider application or terminate the enrollment.
(BEM 704, p. 8)

At the hearing, the proposed provider, and the claimant's sister, admitted that a man living with her either had a criminal history or had criminal charges pending against him.

Also revealed at the hearing, was a second application to have the CDC care provided at the claimant's home by her sister as a relative care provider. This solution would have eliminated the problem of the criminal history residing at the home where the CDC care was to be provided. The department was unclear as to the disposition of the second application.

This ALJ finds that the department erred when it failed to take into account that the second application had resolved the criminal history/charges problem by removing the care from that environment.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to reregister the second application of March 11, 2010, and determine the chosen provider's acceptability at a location where the criminal history is no longer an issue.



Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/6/2010

Date Mailed: 12/6/2010

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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