

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.: 2010-49914
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 18, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, November 18, 2010. The Claimant appeared, along with [REDACTED] and [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUE

1. Whether the Claimant request for hearing is timely?
2. Whether the Department properly denied the Claimant's Child Development and Care ("CDC") application?

FINDINGS OF FACT

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

1. The Claimant submitted a CDC application on October 27, 2009. (Exhibit 1)
2. The Department also received the Claimant's Relative Care Provider application. (Exhibit 2)
3. The Department did not receive the Claimant's Employment Verification.
4. On December 11, 2009, the Department denied the Claimant's CDC application based on the failure to return the requested verifications.

5. The Claimant did not receive notice of the CDC denial nor was the Department able to establish a denial was sent.
6. On or about June 28, 2010, the Department received the Claimant's written request for hearing. (Exhibit 3)

CONCLUSIONS OF LAW

In this case, two issues presented; whether the Claimant's hearing request was timely and whether the CDC denial was proper. Each issue will be addressed separately.

Timeliness

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC R 400.903(1) An applicant, recipient, or licensee shall be informed in writing at the time of any action affecting the claim of the right to a hearing; of the method by which he may obtain a hearing; and that he/she may be represented by an authorized representative. MAC R 400.901. Any hearing request which protests a denial, reduction, or termination of benefits must be filed within 90 days of the mailing of the negative action notice. MAC R 400.902 - .904; BAM 600

In this case, the Department denied the Claimant's CDC application on December 11, 2009. The Claimant denied receipt of any case disposition and the Department was unable to establish otherwise. The Notice of Case Action in the Claimant's case file related to the Claimant's food assistance benefits. In light of the fact that the Claimant did not receive written notice as required in MAC R 400.901, the Claimant's request for hearing is timely.

CDC denial

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”).

The goal of CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified families. BEM 703 DHS may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education, and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. BEM 703 Child care may be provided in or out of the child(ren)’s home. BEM 704 Clients have the right to choose where the care will be provided as well as the type of child care provider they wish to use. BEM 704 In order for DHS to pay, care must be provided in Michigan by an eligible provider. BEM 704 Day care aides and relative care providers are enrolled by DHS to provide care but are not required to be regulated. BEM 704 A day care aide is an individual, including a relative, who provides care in the home where the child lives. BEM 704 A relative care provider is related to the child needing care by blood, marriage or adoption. BEM 704

The client is responsible for obtaining any requested verifications needed to determine eligibility. BEM 702 The client is allowed a full 10 calendar days from the date verification is requested to provided the requested information. BEM 702

In this case, the Claimant submitted a CDC application on October 27, 2009. The Department testified that the Claimant failed to submit the employment verification form. Conversely, the Claimant testified that payroll stubs were submitted. The application was denied on December 11, 2009, which, as discussed above, the Claimant did not receive notification of. Ultimately, there was no evidence that the Claimant refused to cooperate with the Department when processing the application. In light of the foregoing, it is found that the Department’s denial is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Claimant’s request for hearing is timely. It is further found that the Department’s CDC denial is not upheld.

Accordingly, it is ORDERED:

1. The Claimant’s request for hearing is timely.
2. The Department’s CDC denial is not upheld.

3. The Department shall re-open and process the Claimant's October 27, 2009 CDC application in accordance with department policy.
4. The Department shall notify the Claimant in writing of the determination as required in department policy.
5. The Department shall supplement for any lost benefits that the Claimant was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/29/2010

Date Mailed: 11/29/2010

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.

CMM/jlg

cc:

