

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.: 2010-53991
Issue No.: 6027
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 7, 2010
DHS County: Wayne (41)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 7, 2010. Claimant appeared and testified. [REDACTED]

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

ISSUE

Whether Claimant is eligible for Child Development and Care (CDC) benefits from January 29-April 11, 2009?

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 or about January 29, 2009, Work First faxed Claimant's application for CDC benefits to DHS.
2. Claimant's application was never received, was misplaced, or was lost by DHS.
3. On March 23, 2009, Claimant re-faxed her CDC application to DHS.
4. Claimant called DHS to confirm receipt of her application and learned that two pages of the application were not in the faxed materials.
5. On April 2, 2009, Claimant faxed her complete application to DHS.

6. On April 2, 2009, DHS granted CDC benefits to Claimant, starting April 12, 2009.
7. On June 29, 2010, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

CDC was established by the U.S. 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. 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.

In this case, Claimant's request for hearing identifies three issues about which she complains: Medicaid, the Food Assistance Program and CDC. The first and second issues were resolved before the hearing and it is not necessary to address them in this opinion. The Administrative Law Judge, therefore, will address the single issue before her at the hearing, which is CDC.

At the hearing, it was clarified that, as of April 12, 2009, Claimant received CDC benefits. Accordingly, this hearing concerns CDC benefits only for the period of January 29-April 11, 2009, a period of about two and one-half months.

I have found as fact that Claimant did fax her application on or about January 29, 2009. I base this finding of fact on Claimant's credible and unrebutted testimony and on several other pieces of evidence which corroborate her testimony. I refer to credible evidence that Claimant participated in the Work First program in a diligent and responsible manner; that the Work First casenotes document that Claimant was in their offices on [REDACTED], and that these dates are the dates of the signatures found on the application. This information corroborates Claimant's testimony that the Work First staff faxed the CDC application to DHS on her behalf.

In addition, I accept the credible and unrebutted testimony of Claimant that she used [REDACTED] as her CDC provider and that DHS, in fact, paid a \$50 registration fee in order for her to do so. I do not believe [REDACTED] would have taken Claimant's child into the day care program in January 2009 without DHS having paid that fee on or about January 29, 2009.

I will now proceed to consider the legal authority that applies to this case and whether Claimant met the legal requirements for CDC for the period in question. The policy and procedure that governs this question is BAM Item 110, "Application Filing and Registration." I refer herein to the version of BAM 110 that was in effect on January 29, 2009. This is the version of BAM 110 that was adopted effective January 1, 2009. It is not available online, but it is similar to the current version, which is available online. *Id.*

BAM 110, effective January 1, 2009, states as follows:

Date of Application

All Programs

The date of application is the date the local office receives the required minimum information on an application or the filing form. If the application or filing form is faxed, the transmission date of the fax would be the date of application. Record the date of application on the application or filing form. BAM 110, effective January 1, 2009, p. 5.

Applying the legal authority to the facts of the case before me, I find and conclude that Claimant's date of application is January 29, 2009, and DHS failed to process her application in a timely fashion. DHS' denial of CDC benefits to Claimant from January 29-April 11, 2009, is REVERSED. DHS is ORDERED to pay CDC benefits to the appropriate party in accordance with all DHS policies and procedures. DHS shall pay the appropriate party within ten days of receipt of appropriate billing statements and information from the appropriate party.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that DHS is REVERSED. DHS is ORDERED to provide appropriate CDC benefits to Claimant from January 29-April 11, 2009, based on appropriate billing and other necessary information from all parties concerned and in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 7, 2010

Date Mailed: October 11, 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.

JL/pf

cc:

