

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-19553

Issue No: 5000

[REDACTED]

Kent County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9; and MCL 400.37; upon a day care provider's ("provider's") request for a hearing filed on January 12, 2011. The provider requested this hearing seeking payment for services she rendered to a Department of Human Services (DHS) client who was a recipient of benefits under the Child Development and Care (CDC) program. In June, 2011, the provider sought payment from the DHS for her services. After due notice, a hearing was held on August 11, 2011. The provider appeared via telephone and provided testimony, but the client did not appear.

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The DHS has policies that govern the administrative hearing process pertaining to a benefit recipient or a "client." These policies are contained in the Bridges Administrative Manual (BAM). The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. A "client" is defined as "a person(s) applying for, currently receiving program benefits, inquiring about benefits or is part of a base group."¹ See Bridges Policy Glossary (BPG) at page 8. According to BAM 600, only clients, claimants or authorized hearing representatives have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600. Here, a provider or a provider applicant cannot be considered a "client" for purposes of requesting an administrative hearing concerning payment for services rendered relating to the CDC program.

¹ A base group is defined as all persons who must be considered to determine eligibility and benefit levels. (BPG, p. 5).

It should be noted that a provider or a provider applicant who have been denied or terminated as a result of a criminal conviction, pending crime, or for failure to disclose a charge or conviction by the local office, may request an administrative review. BEM 704. However, policy does not specifically provide that a provider or provider applicant may bring an administrative hearing to contest payment for services rendered to a client under the CDC program.

Alternatively, even if somehow this Administrative Law Judge had jurisdiction to hear this matter brought by the CDC provider, the request for hearing is untimely. Under BAM 700, the client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. BAM 600. By all accounts the negative action by the DHS took place on June 7, 2010, but the provider did not request a hearing until January 12, 2011. This was well past the 90 day time period.

Accordingly, the DHS had not taken any action to suspend, reduce, discontinue or terminate any program benefits belonging to the CDC provider. The provider lacks standing to bring such an action before this administrative body. "Standing is a legal term used to denote the existence of a party's interest in the outcome of the litigation that will ensure sincere and vigorous advocacy." *House Speaker v State Administrative Bd*, 441 Mich 547, 554; 495 NW2d 539 (1993). Under the administrative rules discussed above, the provider does not have a right to a hearing and thus, this Administrative Law Judge has no jurisdiction in this matter.

For the reasons stated above, the instant hearing request is HEREBY DISMISSED for lack of jurisdiction.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/23/11

Date Mailed: 8/23/11

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 60 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CAP/ds

