

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 20112679

Issue No: 6019

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 8, 2010

St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 8, 2010](#). The claimant was present and testified.

ISSUE

Did the Department properly determine claimant's Child Day Care (CDC) eligibility?

FINDINGS OF FACT

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for CDC assistance.
2. On August 25, 2010, the Claimant was sent a DHS 4025 Child Development and Care Provider Verification due on September 7, 2010.
3. On September 25, 2010, the Department sent Claimant a DHS 1605 Notice of Case Action denying her CDC application for failure to provide the Provider Verification.
4. On September 30, 2010, the Claimant filed a Request for Hearing.

CONCLUSIONS OF LAW:

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 his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015.

Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (BRM). Department Policy states:

BAM 105 DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do all of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

CLIENT RIGHTS

Right to Apply All Programs

On the same day a person comes to the local office, she/he has the right to file an application and get local office help to provide the minimum information for filing.

An application or filing form, whether faxed, mailed or received from the internet must be registered with the receipt date, if it contains at least the following information:

- Name of the applicant.
- Birth date of the applicant (not required for FAP).
- Address of the applicant (unless homeless).
- Signature of the applicant/authorized representative.

An application/filing form with the minimum information listed above must be registered in Bridges using the receipt date as the application date even if it does not contain enough information needed to determine eligibility. [BAM 110](#) explains the procedures.

If an application/filing form does not contain the minimum information listed above, send it back to the client along with a DHS-330, Notice of Missing Information, informing the client of the missing information.

FIP, SDA, RAPC and RAPM

Treat a faxed or emailed application or filing form as an incomplete application. DHS must receive an original signature before benefits are approved.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. See [Refusal to Cooperate Penalties](#) in this section.

Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

BAM 115

Helping Clients All Programs

The local office must assist clients who need and request help to complete the application form.

The time limit to respond to requests for help completing the application form depends on the circumstance:

- For clients in the local office, respond within one workday.
- For clients who send a letter, respond by a return letter or phone call within five workdays.
- For clients who telephone, respond by either of the following:
 - Return phone call within one workday.
 - Send letter within five workdays.

When help cannot be provided by phone call or letter within specified time frames, complete a home call within five workdays.

The local office must have designated staff to make home calls to help complete applications at all of the following:

- Sufficient help cannot be provided by telephone or letter.
- The client is physically unable to come to the office.
- The client has no one else to help or to come to the office on their behalf.

Note: The cover page of DHS application forms advises clients of their right to receive help and includes the phone number of the DHS Customer Service Unit (517-373-0707) to report a refusal of help.

BEM 703 PROGRAM OVERVIEW

The goal of the Child Development and Care (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 Michigan families.

The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider.

INTRODUCTION

Eligibility for CDC services exists when the department has established all of the following:

- There is a signed application requesting CDC services.
- Each parent/substitute parent; see Parent/Substitute Parent section in this item is a member of a valid [ELIGIBILITY GROUP](#).
- Each parent/substitute parent (P/SP) meets the [NEED](#) criteria as outlined in this item.
- An eligible provider is providing the care.
- All eligibility requirements are met.

ELIGIBLE CHILDREN

The child(ren) needing child care services must be:

- Under age 13.
- Age 13, but under age 18.
 - Requires constant care due to a physical/mental/psychological condition.
 - Supervision has been ordered by the court.

- Age 18 and requires constant care due to a physical/mental/psychological condition or a court order, and is:
 - A full-time high school student.
 - Reasonably expected to complete high school before reaching age 19.

Verify need for CDC services for children over age 12 with a copy of the court order or a statement by a D.O. or M.D.

BEM 704

Aides/Relative Care Providers

An [aide](#) is an individual (including a relative) who provides care in the home where the child lives see PRG [In-Home Child Care](#).

A [relative care provider](#) is related to the child needing care by blood, marriage or adoption as a:

- Grandparent/step-grandparent/great-grandparent/step-great grandparent.
- Aunt/step-aunt/great-aunt/step-great-aunt.
- Uncle/step-uncle/great-uncle/step-great-uncle.
- Sibling/step-sibling.

A relative care provider provides care in the relative's home, and does not live in the same home as the child. Relative status must be verified if questionable. A divorce severs/terminates a relationship gained through marriage.

Note: Aide and relative care providers who are also licensed or registered by BCAL as family or group child care homes, should be paid as family or group child care homes, not as aide or relative care providers.

To determine if a provider is eligible for payment, use Bridges Inquiry. A provider may be searched by provider number, name, service type or license number. Bridges will display the provider begin and end dates.

Providers are active and eligible for payment if there is no end date entry.

Aide/Relative Care Provider Enrollment Process

A new DHS-220-A/R, aide or relative application, must be completed by an already enrolled aide or relative care provider applying to be a different type of DHS enrolled provider. The provider's original ID number will be assigned to the new provider type.

To begin the enrollment process, aide and relative care providers must:

Complete the aide or the relative care provider application, certifying that the applicant meets all of the requirements listed on the application.

The provider applicant must provide the following verifications within six workdays of the application receipt date:

- Proof of identity.
- Proof of age.
- A copy of a valid Social Security number (the Social Security number must be verified with a copy of the card). The name on the Social Security card must match the name on the DHS-220-A/R. If the Social Security card states that it is not valid for employment, the prospective aide/relative may not be enrolled.

In this case, Claimant filed an application for CDC assistance. She had chosen her daughter who is not part of her CDC group to provide the relative care. The daughter was required to complete a particular class to obtain a provider number as part of the application process. The Claimant testified that she contacted her worker, a supervisor and another worker attempting to get information regarding this class. The worker acknowledged that the Claimant had contacted the Department. The worker testified that the program was not part of her job and she did not provide any information to the Claimant regarding the class. In fact, the Claimant testified to numerous contacts with the Department between July and September 2010 in attempts to complete all of the necessary requirements for the application. The Claimant also attached several e-mail correspondences between various Department workers and herself (Exhibit pgs 10-17). The Claimant testified that she eventually received information regarding the required class from [REDACTED]. She states that her daughter completed the class and was given a provider number on September 14, 2010. The Department does not

dispute this claim. This Administrative Law Judge finds that the Claimant cooperated with the Department in providing the necessary documents to determine CDC eligibility. The Department is responsible for assisting clients. The Department neglected to assist the Claimant as required. The Claimant made a reasonable effort to cooperate with the Department and provide the necessary information.

DECISION AND ORDER:

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Claimant made a reasonable effort to provide verification needed to determine her CDC eligibility.

Accordingly, the Department's CDC action is reversed. The department shall:

1. Reprocess the claimant's CDC application in accordance with department policy.
2. Issue any retroactive CDC benefits the claimant is otherwise eligible to receive from the date of application.

It is so ORDERED.

/s/
Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 22, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

KKR/tg

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