

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-27789
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: June 9, 2011
DHS County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]' request for a hearing. After due notice, a telephone hearing was held on June 9, 2011. Claimant appeared and testified. [REDACTED]

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

ISSUE

Whether DHS properly denied Claimant's application for Child Development and Care (CDC) benefits?

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 August 22, 2010, Claimant began a new job.
2. On October 10, 2010, Claimant applied for CDC benefits with DHS.
3. On January 15, 2011, Claimant's employment ended and, as a result, she no longer needed CDC benefits.
4. On March 21, 2011, Claimant filed two Requests for Hearing with DHS, both of which are included for disposition at the Administrative Hearing.

5. The first Hearing Request concerns events in 2009, and DHS has paid CDC benefits for this period.
6. The second request concerns Claimant's October 10, 2010, application.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. 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 CDC benefits to adults and children pursuant to MCL Section 400.14(1) and Michigan Administrative Code Rules 400.5001-5015. DHS' CDC policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals can be found online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures DHS officially created for its own use. While these manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

BEM 703, "CDC Program Requirements," is the DHS manual Item that governs the actions taken in this case. Concerning eligibility, BEM 703 states:

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.

BEM 703, p. 1 (emphasis in original).

Using BEM 703 to analyze the case before me, I find and determine that DHS failed to determine Claimant's eligibility from October 10, 2010-January 15, 2011. Even though Claimant has a valid application on file with DHS, DHS has not made an eligibility determination as of this time. This error shall be corrected. Also, based on the record before me, I find there is insufficient proof to establish by clear and convincing evidence

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that Claimant applied in August 2010, and I am not ordering DHS to consider CDC benefits for Claimant from that date.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' error in failing to act on Claimant's October 10, 2010 application. IT IS ORDERED THAT DHS shall reinstate and reprocess Claimant's October 10, 2010, application and provide her with any supplemental CDC benefits to which she is entitled.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge REVERSES DHS' action in this case. IT IS HEREBY ORDERED that DHS shall reinstate and reprocess Claimant's October 10, 2010, application, and DHS shall provide her with any retroactive CDC benefits to which she is entitled. DHS shall take all steps in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 14, 2011

Date Mailed: June 16, 2011

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:

