

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-27791
Issue No.: 6022
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] appeared and testified as a witness for Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly determined the payment period for Claimant's 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. In September 2010, Claimant applied for CDC benefits. This application was denied due to the fact that a background check of the proposed Child Care Provider produced information that there was a person in the home with a record of criminal activity.
2. Claimant did not request an Administrative Hearing to dispute this issue.
3. In January 2011, Claimant's CDC Provider submitted verification to DHS proving she did not have a background of criminal activity.

4. Also in January 2011, DHS informed Claimant that the criminal activity referred to was attributable not to the CDC Provider but to Claimant's brother.
5. DHS conducted an Administrative Review regarding Claimant's brother.
6. Claimant's brother had a record of criminal activity which was subsequently expunged.
7. On February 13, 2011, Claimant applied for CDC benefits with DHS.
8. On March 22, 2011, Claimant filed a request for hearing with DHS.
9. On April 2, 2011, the DHS completed its required Administrative Review and authorized payment for the services of Claimant's CDC Provider retroactive to February 13, 2011.

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 contained 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 they are not laws created by Congress or the Michigan State 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 policy is, I will examine whether in fact it was followed in this case.

I consider first that BAM 110, "Application Filing and Registration," must govern the decision in this case. BAM 110 states how DHS is to decide the official registration date of an application.

The date of application is the date the local office receives the required minimum information on an application or the filing form. BAM 110, p. 5.


I find and determine that the relevant application date in this case is February 13, 2011. The Claimant in this case argues that the application date in this case is a date in September 2010 and that, as a result, she should be awarded CDC benefits retroactive

to September 2010. However, as it is undisputed that Claimant's September 2010 application was denied, I cannot find that the September date is the appropriate one. Indeed, from at least October 1, 2010, to February 12, 2010, Claimant did not have an active CDC application with DHS. After the September 2010 denial, Claimant took no steps to dispute the denial. If she had done so by requesting a hearing, the September, 2010 date may have been preserved. Based on the record before me, I must determine that DHS can only grant retroactive benefits to the application date of February 13, 2011.

Accordingly, I find and determine that the DHS authorization of CDC benefits retroactive to February 13, 2011, was proper and it is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge AFFIRMS the action taken by DHS in this case. DHS need take no further action in this case.



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.

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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:

