

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20113492/20115067
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 13, 2010
Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's requests for a hearing received on October 12, 2010 and October 26, 2010. As a preliminary matter, register numbers 20113492 and 20115067 are being combined because they are both protesting the denial of Child Development and Care (CDC). After due notice, a telephone hearing was held on December 13, 2010. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's Child Development and Care (CDC) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for Child Development and Care (CDC) on August 13, 2010. (Department Exhibit 1).
2. On August 16, 2010, Claimant's employer faxed the department a DHS-38 Verification of Employment minus Claimant's work schedule. (Department Exhibit 6).

3. The department mailed Claimant a Verification Checklist on September 29, 2010, requesting Verification of Employment by returning one of the following: a work schedule showing number of hours worked; pay stubs showing number of hours worked; a DHS-38 Employment Verification; a DHS-3569 Agricultural Worker Income Verification or a signed statement from employer stating hours worked and verification of wages by returning one of the following: last 30 days of check stubs or earnings statements; employer statement, or a DHS-38, Verification of Employment. (Department Exhibit 3).
3. On October 4, 2010, Claimant's employer again faxed the department the same DHS-38 Employment Verification. (Department Exhibit 6; ALJ Exhibit 2).
4. On October 14, 2010, the department mailed Claimant a Notice of Case Action denying Claimant's request for CDC because Claimant failed to verify necessary earnings. (Department Exhibits 1, 8-10).
5. Claimant submitted hearing requests on October 12, 2010 and again on October 26, 2010, protesting the denial of CDC benefits. (Requests for a 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 400.901-400.951. 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).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy states:

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 the necessary forms. BAM, Item 105, p. 5.

Refusal to Cooperate Penalties

All Programs

Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. BAM, Item 105, p. 5.

Verifications

All Programs

Clients must take actions within their ability to obtain verifications. DHS staff must assist when necessary. See BAM 130 and BEM 702. BAM, Item 105, p. 8.

Assisting the Client

All Programs

The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or **not** fluent in English. BAM, Item 105, p. 9.

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level. BAM, Item 130, p. 1.

Timeliness Standards

All Programs (except TMAP)

Allow the client 10 calendar days (**or** other time limit specified in policy) to provide the verification you request. If the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. BAM, Item 130, p. 4.

Send a negative action notice when:

- . the client indicates refusal to provide a verification, **or**
- . the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM, Item 130, p. 4.

A Verification Checklist was mailed to Claimant on September 29, 2010, requesting one of the following: a work schedule showing number of hours worked; pay stubs showing number of hours worked; a DHS-38 Employment Verification; a DHS-3569 Agricultural Worker Income Verification or a signed statement from employer stating hours worked. At Claimant's request, Claimant's employer faxed the department a DHS-38 on August 16, 2010, October 4, 2010, October 29, 2010 and November 11, 2010, showing Claimant's starting date and rate of pay, but missing Claimant's hours worked and wages.

In this case, Claimant's employer faxed the department the requested DHS-38 Employment Verification four times. The department stated it left a message with the employer requesting Claimant's wages. The employer stated they never received a message requesting Claimant's wages. Claimant testified that no one ever told her that she had to turn in her hours or earnings.

In addition, Claimant called her worker to ask what she needed to submit in lieu of pay stubs because she did not receive pay stubs from her employer, and therefore could not provide pay stubs showing the number of hours worked. Claimant testified that she was unable to leave a message when she called the department. The department verified that Claimant called the department and explained that Claimant was unable to leave a voice mail because of the pilot system they were under which did not allow clients to leave messages.

Based on Claimant calling the department and Claimant's employer's numerous submissions of the requested DHS-38 on Claimant's behalf to verify her employment, the Administrative Law Judge finds that Claimant did make a reasonable effort to provide verification of her income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to establish that Claimant did not make a reasonable effort to provide verification of her income.

Accordingly, the department's actions are REVERSED. The department shall allow Claimant the opportunity to obtain the wage information and hours worked from her employer and redetermine Claimant's eligibility for CDC benefits for that time period. In addition, the department shall issue any CDC supplement that Claimant is otherwise eligible to receive.

SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 28, 2010

Date Mailed: December 28, 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 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.

VLA 

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