

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-11657
Issue No.: 6000
Case No.: [REDACTED]
Hearing Date: February 14, 2011
DHS County: Macomb (50-20)

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 February 14, 2011. Claimant appeared and testified. [REDACTED], Claimant's Authorized Representative and child care provider, appeared and testified for the Claimant. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible 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. In 1984, [REDACTED] was convicted of a misdemeanor.
2. In 2009, DHS issued a Provisional Foster Care License to [REDACTED] and initiated a background check.
3. On September 12, 2010, DHS issued a Foster Care License to [REDACTED], valid for two years.
4. In about November 2010, Claimant applied for CDC benefits.

5. On November 17, 2010, DHS denied Claimant's application because her provider, [REDACTED], had a criminal conviction match on the Internet Criminal Access Tool.
6. On November 29, 2010, Claimant filed a Request for Hearing with DHS.
7. At the hearing on February 14, 2011, DHS agreed that Claimant's provider did not present a risk and that DHS was willing to accept him as a DHS CDC provider.
8. As a result of DHS' offer, Claimant testified she no longer wished to continue with the hearing.

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 services to adults and children pursuant to MCL 400.14(1) and Michigan Administrative Code Rules 400.5001-400.5015. DHS' policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

Under BAM Item 600, clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

At the hearing, DHS agreed to accept Claimant's provider's foster care license, issued by DHS, to establish that there was no current risk in permitting [REDACTED] to become a CDC relative aid provider. As a result of DHS' agreement, Claimant indicated she no longer wished to proceed with the administrative hearing.

As the parties have agreed to settle their differences, it is not necessary for the Administrative Law Judge to adjudicate any issues presented. However, pursuant to BEM 704, DHS cannot enroll Deason as a provider unless and until all of the CDC program requirements are met. These requirements include Administrative Review of provider eligibility, completion by the provider of the Great Start to Quality Orientation class, and all other requirements of DHS.

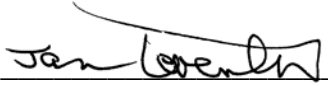
Therefore, following the agreement of the parties, and based on the above findings of fact and conclusions of law, IT IS ORDERED that DHS will certify Claimant's child care provider no earlier than September 12, 2010, the date he was awarded a DHS Foster Care License, but DHS may certify only upon completion of the following steps by the Claimant and the provider:

1. Claimant and the CDC provider complete and submit DHS Form 759, "Request for Administrative Review of the Denial or Termination of Provider Enrollment," as required by BEM 704, p. 9, "CDC Providers – Administrative Review Process."
2. Claimant's provider completes the DHS CDC Great Start to Quality Orientation program and all other requirements of the CDC program.

All steps shall be accomplished pursuant to this stipulated Order, and in accordance with DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law and the stipulated agreement of the parties, states IT IS HEREBY ORDERED that DHS shall certify Claimant's child care provider no earlier than September 12, 2010, provided that all conditions stated above are met. 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: February 17, 2011

Date Mailed: February 17, 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:

