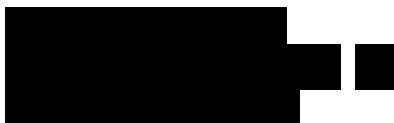


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2011-29111
Issue No. 6019
Case No. [REDACTED]
Hearing Date: June 16, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on June 16, 2011. Claimant appeared and testified. The Department of Human Services (Department) was represented by [REDACTED] AP Supervisor, and [REDACTED] ES.

ISSUE

Was the Department correct in its application of policy with respect to timeliness of determining CDC provider eligibility?

FINDINGS OF FACT

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

1. On March 28, 2011 Claimant applied for CDC with an unlicensed provider.
2. The Department did not issue a notice of approval or denial to the provider.
3. Claimant requested a hearing on April 1, 2011.

CONCLUSIONS OF LAW

The CDC 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 provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015.

2011-29111/SB

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

BAM 115, p. 12 instructs:

CDC provider eligibility must be determined within 10 workdays of receiving the DHS-220, Child Development and Care Unlicensed Provider Application. Bridges will send notification to the provider. The notice must inform the provider applicant whether the provider application has been approved or denied; see BEM 704.

BEM 704 dictates that to enroll unlicensed (Aide/Relative) providers, the Department must certify that the provider meets all of the requirements, including proof of identity and proof of age. The Department must also complete background clearances and enroll the provider in Provider Management training. The policy specifically states:

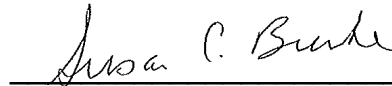
Complete all background clearances (central registry, ICHAT, OTIS, PSOR, NSOPR, FIL) on the provider and all adult household members listed on the provider's application, **regardless of where the care is provided**. (Emphasis added.)

In the present case, Claimant applied for CDC on March 28, 2011. The Department was required to notify the provider within ten days of the application of whether the provider was approved or denied. The Department stated at the hearing that the provider did not qualify due to the background check of three of the provider's household members. However, the Department did not present at the hearing a notice of denial to the provider, and the Claimant stated at the hearing that she was unaware of problems with household members until the hearing. Claimant added that the provider was coming to Claimant's home for child care.

Although, per policy, all members of the unlicensed provider's household are subject to a complete background clearance regardless of where the care is provided, the Department nevertheless has to notify the provider of approval or denial within ten days of the application. I am not satisfied that the Department followed its own policy to determine eligibility within ten days of the application of March 28, 2011, as the Department had no proof of such notice.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was not correct in its application of policy with respect to timeliness of determining CDC provider eligibility, and therefore it is ORDERED that the Department's decision in the matter is REVERSED. It is further ORDERED that the Department shall immediately process Claimant's CDC application of March 28, 2011, issue a notice to the provider, and if eligibility is found, issue missed payments in the form of a supplement.



Susan Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/23/11

Date Mailed: 6/23/11

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.

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