

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.: 2011-9313
Issue No.: 6021
Case No.: [REDACTED]
Hearing Date: February 7, 2011
Wayne County DHS (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 7, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly failed to determine Claimant's Child and Development Care (CDC) benefits effective 6/1/10.

FINDINGS OF FACT

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

1. Claimant submitted a CDC benefit application to DHS on 6/1/10.
2. Claimant's DHS specialist did not receive Claimant's 6/1/10 dated application.
3. Claimant subsequently submitted a CDC benefit application to DHS on 9/6/10.
4. On an unspecified date, DHS approved Claimant for CDC benefits effective 8/29/10.
5. On 10/19/10, Claimant requested a hearing disputing the failure by DHS to determine her CDC benefits effective 6/1/10.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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) and the Reference Tables Manual (RFT).

The first day that CDC may be authorized is the latest of the following:

- The CDC application receipt date.
- The date the child care need begins.
- The date the provider becomes eligible for subsidy payments.
- The date the unlicensed provider completes the basic training requirement. BAM 115 at 18.

Claimant contended that she submitted a CDC application on 6/1/10 and should have been evaluated for CDC eligibility as of her application date. Claimant's DHS specialist contended that she did not receive Claimant's allegedly submitted application and determined Claimant's eligibility based on a subsequently submitted CDC benefit application. Whether Claimant submitted an application to DHS on 6/1/10 would affect the begin date of Claimant's CDC benefit eligibility. Thus, whether Claimant submitted a CDC benefit application to DHS on 6/1/10 is the first issue to determine.

In circumstances when a client claims to have submitted a document that DHS denies receiving, the undersigned is typically left with circumstantial evidence to make a determination. The first evidence to consider is the testimony of each party. Each side can only testify about their personal knowledge. In the present case, Claimant presented first-hand testimony that a CDC benefit application was submitted to DHS on 6/1/10. A DHS specialist can credibly testify that he or she has first-hand knowledge that he/she did not receive a document; however, in many cases including the present one, a document is not given directly to the specialist. Thus, it is always possible that a client submitted a document to DHS but the document was misplaced within the DHS custody chain prior to the DHS specialist. Based on the immense volume of documents received by DHS, it is reasonable to believe that DHS staff would occasionally lose or misdirect paperwork.

In weighing the value of testimony, verification of testimony is very helpful. Unfortunately, it is typically unrealistic to expect a client to verify that documents were

submitted to DHS. Persons cannot be realistically expected to send every document to DHS via certified mail or with a witness. In the present case, Claimant had no verification that a document was submitted.

Another factor that may be considered in determining the credibility of testimony is to look at documents submitted in preparation of the administrative hearing and gauging the consistency between the documents with testimony. Generally, testimony is more credible when it matches that person's written statement. Claimant's Request for Hearing was detailed in explaining that she objected to the DHS failure to acknowledge the allegedly submitted CDC application on 6/1/10. Claimant provided details about the alleged submission and her actions following learning that DHS did not give Claimant the benefit of a 6/1/10 CDC application date. DHS drafted a Hearing Summary but did not address any of the issues raised by Claimant in the Request for Hearing.

The general testimony of Claimant and DHS was credible. Nothing about either side's testimony raised any particular concerns about credibility. However, based on Claimant's consistency between her written statement in requesting a hearing and her testimony, it is found that Claimant's testimony was more reliable. Accordingly, it is found that Claimant established that she submitted a CDC application in 6/2010.

Claimant's Request for Hearing did not specify a precise date though Claimant testified that the exact date was believed to be 6/1/10. The undersigned accepts 6/1/10 as the date of submission based on Claimant's testimony.

The undersigned does not have sufficient knowledge to establish whether Claimant was eligible for CDC benefits based on a 6/1/10 CDC application date. This is an issue which is left for DHS to determine. Claimant may request a subsequent hearing if she is dissatisfied with the determination made by DHS concerning Claimant's eligibility for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to process Claimant's CDC benefit application dated 6/1/10. It is ordered that DHS shall request a CDC application from Claimant and register the returned application with a date of 6/1/10. DHS shall determine Claimant's eligibility for CDC benefits based on a 6/1/10 date of submission in accordance with their regulations. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

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Date Signed: 2/23/2011

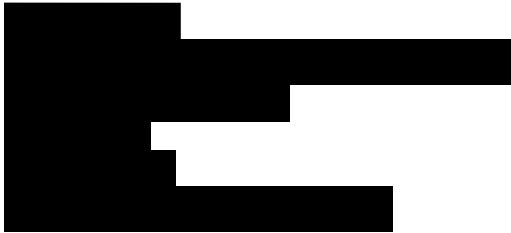
Date Mailed: 2/23/2011

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.

CG/jlg

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