

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201253622
Issue No.: 5030, 6021
Case No.: [REDACTED]
Hearing Date: June 18, 2012
County: Wayne 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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on June 18, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, [REDACTED], Specialist, [REDACTED], Triage Coordinator, and [REDACTED], WPP Representative.

ISSUES

1. The first issue is whether DHS properly denied Claimant's application for State Emergency Relief (SER) requesting rent assistance due to an alleged failure by Claimant to submit first month's rent and security deposit information.
2. The second issue is whether Claimant's provider is entitled to Child Development and Care (CDC) payments prior to a time that the provider was certified as a CDC provider.

FINDINGS OF FACT

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

1. On 4/23/12, Claimant applied for SER requesting assistance with a first month's rent and a security deposit.
2. On 5/2/12, DHS denied Claimant's SER application due to an alleged failure by Claimant to verify where she wanted to move.

3. Claimant was an ongoing CDC benefit recipient.
4. On 11/1/2011, Claimant reported to DHS that she began using her mother as her new CDC provider.
5. On 5/12/12, Claimant's mother completed CDC provider training.
6. On an unspecified date, DHS approved CDC payments for Claimant's mother as a CDC provider effective 5/6/12.
7. On 5/16/12, Claimant requested a hearing to dispute the denial of the SER application and the DHS failure to approve CDC payments for her mother from 11/1/11-5/5/12.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

The present case involves an SER application seeking rental assistance. Claimant wanted DHS to help with payment for a first month's rent and security deposit DHS stated that Claimant's SER application was denied because Claimant did not know to where she wanted to move. The DHS reason for SER denial is presumed to equate to a failure by Claimant to verify where she wished to move.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 at 5. DHS is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.*

DHS conceded that a VCL was never sent to Claimant requesting verification of where client wished to move. The DHS failure to make a written request for verification is fatal to a denial based on an alleged client failure to verify information. Accordingly, the SER denial is found to be improper.

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 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).

Claimant contended that DHS erred in failing to authorize CDC payments following a CDC provider change. It was not disputed that Claimant reported to DHS on 11/1/11 that she would begin using her mother as a CDC provider. It was also not disputed that DHS authorized Claimant's mother as Claimant's CDC provider beginning 5/6/12. Claimant contended that her mother is entitled to receive CDC payments from 11/1/12 through 5/5/12.

CDC Providers are eligible for payment starting with the pay period that holds the Great Start to Quality Orientation training date. BEM 704 at 10. Payments for any care provided prior to the training date will not be authorized or paid. *Id.*

It was not disputed that Claimant's mother took the CDC training on 5/12/12. Thus, according to DHS regulations, DHS properly authorized Claimant's mother as eligible for payments beginning 5/5/12, the first date of the pay period which includes 5/12/12.

DHS also noted that Claimant and her mother signed a Child Development and Care provider Verification (DHS-4025). Immediately above Claimant's signature on the form, in bold letters, the following statement appears, "I understand that if I choose an unlicensed provider, I am responsible for any charges for periods before my provider completes the Great Start to Quality Orientation." Above the provider's signature, in bold letters, the following statement appears, "I understand if I am an unlicensed provider, I will not be paid by DHS for any care I provide in periods before I complete the Great Start to Quality Orientation training." Claimant's and her provider's signature on the DHS-4025 is extremely persuasive evidence that Claimant should have had no expectation that her mother would have been authorized for CDC payments that occurred prior to completion of CDC provider training.

Claimant contended that DHS either purposely or negligently delayed the authorization of her mother as a CDC provider. Claimant stated that DHS made repetitive verification requests of her and her mother thereby causing a delay in the time that her mother could attend provider training. Claimant also stated that DHS gave her the impression that her mother would be quickly approved as a CDC provider because her mother had received CDC provider payments in the past. DHS responded that Claimant was to blame for the delay due to repeated failures to comply with verification requests.

There are potential circumstances which might justify holding DHS responsible for a failure to process a CDC provider change; the present case does not present such circumstances. Claimant and her provider acknowledged in writing that no CDC payments would be authorized until her mother completed provider training. Claimant presented no evidence to justify disregarding that acknowledgement. It is found that

DHS properly authorized CDC payments for Claimant and her CDC provider beginning 5/6/12.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly authorized CDC benefits for Claimant beginning 5/6/12. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application seeking rent assistance. It is ordered that DHS:

- (1) reinstate Claimant's SER application dated 4/23/12;
- (2) process Claimant's SER application subject to the finding that Claimant has not failed to verify a first month's rent amount or security deposit because DHS has not made a written request for the information.

The actions taken by DHS are REVERSED.



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

Date Signed: June 27, 2012

Date Mailed: June 27, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/hw

cc:

