

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201270969
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: March 14, 2013
County: Wayne DHS (15)

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 March 14, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Supervisor.

ISSUE

The issue is whether DHS properly denied Claimant's eligibility for Child Development and Care (CDC) benefits.

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 3/25/12, Claimant applied for CDC benefits.
2. On an unspecified date, DHS requested documentation concerning Claimant's choice of CDC provider.
3. On an unspecified date, Claimant provided DHS with documentation which reported that Claimant chose an unlicensed CDC provider.
4. On 5/8/12, DHS denied Claimant's CDC benefit application.

5. On 7/6/12, Claimant requested a hearing to dispute the CDC application denial and disputed a failure by DHS to issue CDC benefits back to 2008.
6. As of the date of the administrative hearing, Claimant's CDC provider was still not licensed.

CONCLUSIONS OF LAW

The Child Development and Care (CDC) program was established by authority of the Social Security Act and the Child Care and Development Block Grant Act. The Department of Education (MDE) administers the program and sets rates and eligibility criteria. The Department of Health and Human Services (HHS) administers the program on the federal level. The Department of Human Services (DHS) is responsible for eligibility determination for the CDC program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing concerning a DHS notice tied to a DHS case action from 5/8/12. The DHS case action dated 5/8/12 concerned a denial of Claimant's CDC application dated 3/25/12. Claimant testified that she requested a hearing to obtain CDC benefit eligibility going back to 2008.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (2/2013), p. 4. Claimant claimed that she requested a hearing on multiple occasions prior to 7/6/12 but was never granted a hearing. Claimant alleged that DHS purposely failed to process her hearing requests and denied her due process. A deprivation of due process is a serious allegation requiring serious consideration.

Claimant's full allegation is as such- for a four year period, DHS purposely and repeatedly denied her CDC benefit eligibility, denied payments to her CDC provider and deprived Claimant of her hearing rights to dispute the denials. Claimant contended that she continued to use two unlicensed CDC providers for four years, despite DHS repeated denials of CDC eligibility. It is highly doubtful that a person would continue to use unlicensed CDC providers for a four year period if DHS continuously refused payment to such providers, even if the payments were wrongly denied. Claimant's allegation was simply unbelievable. More importantly, it was unsupported by evidence. It is found that Claimant is not entitled to a hearing on any issue other than the proper denial of her CDC application dated 3/25/12.

DHS initially justified the denial by claiming that Claimant failed to submit a Child Care Provider Verification (DHS-4025). DHS amended their justification for application denial by conceding that a DHS-4025 was submitted by Claimant, but that it failed to list a licensed CDC provider.

Prior to approving CDC benefit eligibility, DHS is to verify that the client is using an enrolled and eligible provider. BEM 702 (1/2011), p. 1. This policy could be interpreted to mean that a client can only choose a licensed CDC provider or face application denial; other DHS policy is less supportive of such an interpretation. BEM 704 outlines the process of approving CDC applications when a client chooses an unlicensed CDC provider. Based on this policy, DHS may not deny an application simply because a client chooses an unlicensed CDC provider.

Had Claimant limited her dispute to CDC eligibility, there was ample evidence to reverse the denial of Claimant's CDC application. Instead, Claimant's primary contention was that DHS should have issued day care payments to her provider.

Claimant contended that her CDC provider was eligible for CDC payments because the provider received CDC provider payments in the past. Receipt of CDC payments in the past is not proof of current licensing. Claimant's CDC provider brought no evidence to the hearing verifying that she is a licensed CDC provider. Based on the presented evidence, it is found that Claimant's sister is not a licensed CDC provider eligible to receive CDC payments.

Claimant implied that her sister was not an eligible CDC provider because of some failure by DHS. In other words, Claimant sought a hearing about the correctness of her CDC provider's lack of eligibility. Neither child care providers nor CDC recipients are entitled to administrative hearings based on provider/applicant denial or closure. BEM 704 (4/2012), p. 15. It should be noted that DHS utilizes a separate administrative process for CDC providers to dispute issues concerning provider eligibility. Thus, Claimant is not entitled to raise questions about her CDC provider's eligibility at an administrative hearing.

Though the DHS application denial did not appear to be proper, it would serve no purpose to order DHS to reinstate the application. Claimant agreed that her sister served as the CDC provider since 3/25/12, Claimant's CDC benefit application date. Claimant is not entitled to CDC benefit eligibility for the period that she used an unlicensed CDC provider. Claimant made no attempts to procure the services of a different provider despite a nearly one year lapse in time. For this reasoning, Claimant is not entitled to an administrative remedy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to establish a basis for an administrative remedy for an improperly denied CDC application.

The actions taken by DHS are AFFIRMED.



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

Date Signed: 3/21/2013

Date Mailed: 3/21/2013

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

CG/hw

cc:

