

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

IN THE MATTER OF:



Reg. No.: [REDACTED]
Issue No.: [REDACTED] 6019
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County DHS: Saginaw

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on February 14, 2013. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's May 14, 2012, Child Development and Care (CDC) application on June 27, 2012?

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 May 14, 2012, Claimant submitted an application for Child Development and Care (CDC) benefits.
2. On June 13, 2012, Claimant was sent a Verification Checklist (DHS Form 3503) requesting employment verification. The verification was due on June 25, 2012.
3. On June 27, 2012, the Department had not received Claimant's employment verification. Claimant was sent a Notice of Case Action (DHS-1605) stating her Child Development and Care (CDC) application was denied.
4. On August 17, 2012, Claimant submitted a request for hearing.

CONCLUSIONS OF LAW

The Child Development and Care program (CDC) 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 (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case it is undisputed that the Department had not received the employment verification. Claimant testified that she turned the Verification of Employment (DHS Form 38) over to her employer and they gave her the impression it had been faxed to the Department. Claimant later discovered that the fax had not been sent out successfully. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 702 CDC VERIFICATIONS

DEPARTMENT POLICY

The client is responsible for obtaining any requested verifications needed to determine eligibility. Use the [DHS-3503](#), Verification Checklist, to inform the client of what verifications are needed at application and redetermination. You may also choose to use the form at case changes. A copy of all verifications must be filed in the case record. See [BAM 210](#), Redeterminations, for policy regarding verification at redetermination.

Verification Timeframes

The client is allowed a full 10 calendar days from the date verification is requested (the date of request is not counted) to provide the requested information. If requested, at least one extension must be given if the client cannot provide the verification despite a reasonable effort. For active cases, Bridges will allow timely notice if verifications are not returned.

Verifications At Application

The following is required prior to opening CDC on Bridges:

- Verify the **identity** of the applicant and authorized representative, if any; see [BEM 221](#), Identity.
- Verify the client's address; see [BEM 220](#) for acceptable verifications.
- Obtain the **Social Security number (SSN)** of the CDC grantee.

Do **not** deny eligibility solely because you are unable to obtain the SSN.

- Verify the **alien status** for each child needing care who **is not a U.S. citizen**; see [BEM 225](#), Citizenship/Alien Status.
- Verify the need for CDC; see [BEM 703](#), including:
 - Documentation of need for children over age 12 who need care (court order or a physician's statement).
 - Documentation of the need reason for EACH parent/substitute parent.
- Verify all countable income, if CDC Income Eligible group; see BEM 500-504.
- Verify presence of children, only if questionable.
- Verify the client is using an enrolled and eligible provider.
- Verify the children in care, the date care began, where care is provided and the provider's relationship to the children with the DHS-4025, Child Care Provider Verification. This form must be signed by both the parent and all provider types (centers, homes, unlicensed).

The evidence in this record does not indicate Claimant was the specific cause of the employment verification not being submitted. However, the Department policy cited above clearly states that Claimant is the person ultimately responsible for submission of any required verifications. The equity of Claimant's situation is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make

exceptions to the department policy set out in the program manuals.

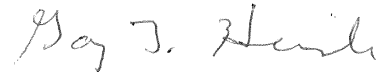
Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

Because the required employment verification was not received by the Department by the due date, denial of the application was a correct action in accordance with law and policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's May 14, 2012, Child Development and Care (CDC) application on June 27, 2012.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.



Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 25, 2013

Date Mailed: February 26, 2013

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 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

GFH/kl

cc:

