

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201345303
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: July 11, 2013
County: Lapeer

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 July 11, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Child Development and Care (CDC) 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. The Claimant submitted an application for Child Development and Care (CDC) benefits on April 4, 2013.
2. On April 9, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and a CDC Provider Application (DHS-4025) with due dates of April 19, 2013.
3. The Claimant returned the CDC Provider Application uncompleted but wrote on the form that she was not sure yet of which childcare provider to use.
4. On April 22, 2013, the Department notified the Claimant that it had denied her application for assistance for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

5. The Department received the Claimant's request for a hearing on May 2, 2013, protesting the denial of her Child Development and Care (CDC) application.

CONCLUSIONS OF LAW

The Child Development and Care (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 1999 AC, R 400.5001 through Rule 400.5015.

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes the completion of necessary forms. Department of Human Services Bridges Assistance Manual (BAM) 105 (March 1, 2013), p 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 1. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level when it is required by policy, required as a local office option, or information regarding an eligibility factor is unclear, inconsistent, incomplete, or contradictory. BAM 130. The Department uses documents, collateral contacts, or home calls to verify information. BAM 130. A collateral contact is a direct contact with a person, organization, or agency to verify information from the client. BAM 130. When documentation is not available, or clarification is needed, collateral contact may be necessary. BAM 130.

On April 4, 2013, the Claimant submitted an application for Child Development and Care (CDC) benefits. On April 9, 2013, the Department sent the Claimant a Verification Checklist (DHS-3503) and a CDC Provider Application (DHS-4025) with due dates of April 19, 2013.

The Claimant returned the CDC Provider Application uncompleted but wrote on the form that she was not sure which childcare provider to use.

Department of Human Services Bridges Eligibility Manual (BEM) 702 (January 1, 2012) requires that the Department 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 before opening CDC benefits.

This Administrative Law Judge finds this requirement to be inconsistent with other categories of Department issued benefits. Food Assistance Program (FAP) applications may apply for expedited benefits. Medical Assistance (MA) applications have the opportunity to wait until eligibility has been determined before choosing a course of treatment. State Emergency Relief (SER) applicants have a duty to resolve their emergency by other means before applying for benefits and then receive an eligibility determination within ten days.

Child Development and Care (CDC) applications must commit themselves financially to childcare expenses while their application is pending and before eligibility has been determined.

However, this Administrative Law Judge's authority over this case is limited to determining whether the Department properly determined the Claimant's eligibility for Child Development and Care (CDC) benefits in accordance with policy.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department properly applied BEM 702 to the Claimant's circumstances. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, 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).

Therefore, this Administrative Law Judge has no choice but to uphold the Department's April 22, 2013, denial of the Claimant's application for Child Development and Care (CDC) benefits because the Department properly implemented its policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied the Claimant's application for Child Development and Care (CDC) benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits.

The Department's Child Development and Care (CDC) eligibility determination is **AFFIRMED**. It is SO ORDERED.

/s/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 07/17/2013

Date Mailed: 07/17/2013

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

KS/sw

cc:

