

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-009396
Issue No.: 6001
Case No.: [REDACTED]
Hearing Date: July 30, 2015
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10 After due notice, telephone hearing was held on July 30, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED].

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application 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 April 28, 2015, the Claimant applied for Child Development and Care (CDC) benefits.
2. The Department denied the Claimant's application for Child Development and Care (CDC) benefits based on a lack of need for childcare.
3. On June 1, 2015, the Department received the Claimant's request for a hearing protesting the denial of Child Development and Care (CDC) benefits.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Each parent of the child needing care must have a valid need reason when child care is requested. In two-parent households, both parents' need reasons must be verified with the appropriate verification. Department of Health and Human Services Bridges Eligibility Manual (BEM) 703 (July 1, 2015), pp 4-5.

The Claimant applied for CDC benefits on April 28, 2015, after reporting that her husband is no longer living in her home. The Department determined that the Claimant's husband does live in her home and that a valid need for CDC benefits was not established for her husband.

The Department submitted an investigation report that includes the statement of an unidentified person that told the investigator that the Claimant and her husband live together off Florence Street somewhere. An unidentified neighbor of the Claimant told the Department's investigator that the Claimant's husband that he lives at the Claimant's address. The Claimant told the investigator that she had kicked her husband out of their home on April 26, 2015, and that he is living with his mother. The investigator made a home visit to the mother of the Claimant's husband and found him there. The Claimant's husband told the investigator that he will visit his children at the Claimant's home but sleeps at his mother's home. The Claimant's husband told the investigator that he stores his person belongings in his car. The Claimant's husband told the investigator that he stayed over at the Claimant's home one night.

The Claimant argues that her husband does not live at her residence and that she had not allowed him to live there while he is in substance abuse treatment.

This Administrative Law Judge finds that the Department presented insufficient evidence to establish that the Claimant's husband continues to live in her household since she submitted her application for CDC benefits. The evidence supporting a finding that the husband lives in the Claimant's household consists primarily of the verbal statements of unidentified witnesses of unknown veracity. Other witnesses maintain that the husband has been living with his mother. The evidence on the record does not support a finding that the husband's absence from the Claimant's home has been temporary since applying for CDC benefits. Department policy does not establish a minimum threshold for the number of nights that a person must sleep at a location to establish a residence, or which location is considered an adult's residence when that person sleeps at multiple locations.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant's request for Child Development and Care (CDC) benefits based on a lack of need for childcare.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a determination of the Claimant's eligibility for Child Development and Care (CDC) as of April 28, 2015.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/11/2015**

Date Mailed: **8/11/2015**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

