

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

IN THE MATTER OF:



MAHS Reg. No.: 15-021501
Issue No.: 2000, 6001
Agency Case No.: [REDACTED]
Hearing Date: February 09, 2016
County: WASHTENAW

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on February 9, 2016, from Lansing, Michigan. Claimant was represented by Attorney [REDACTED] from Legal Services of South Central Michigan. Claimant and [REDACTED] appeared and testified at the hearing. The Department was represented by Family Independence Manager [REDACTED] and Assistance Payments Worker [REDACTED] of Linguistica provided French language translation services. During this hearing it was determined that Claimant did not have a Medical Assistance (MA) issue for resolution. That portion of this hearing is dismissed.

ISSUE

Did the Department properly deny Claimant's September 25, 2015 Child Development and Care (CDC) application?

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 September 25, 2015, Claimant submitted an application for Child Development and Care (CDC) benefits.
2. On October 6, 2015, Claimant was sent a Verification Checklist (DHS-3503) and a Child Development and Care Provider Verification (DHS-4025). The Child Development and Care Provider Verification (DHS-4025) was due by October 16, 2015.

3. On October 14, 2015, Claimant returned an incomplete Child Development and Care Provider Verification (DHS-4025).
4. On October 23, 2015, Claimant was sent another Verification Checklist (DHS-3503) and Child Development and Care Provider Verification (DHS-4025). This one was due by November 2, 2015.
5. On October 30, 2015, the Child Development and Care Provider Verification (DHS-4025) Claimant returned was incomplete.
6. On November 5, 2015, Claimant was sent a Notice of Case Action (DHS-1605) which stated her Child Development and Care (CDC) application was denied.
7. On November 10, 2015, Claimant submitted a hearing request.

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.

Claimant does not dispute that both the Child Development and Care Provider Verifications (DHS-4025) were incomplete. Both forms had the required signature of Claimant and her identified care provider. Both forms had all the requested information filled in except for the "Date Care Began" for the children.

Bridges Eligibility Manual (BEM) 702 CDC Verifications, clearly identifies that verification of the children in care, the date care began, where care is provided and the provider's relationship to the children with the DHS-4025 is required prior to authorization of benefits.

Claimant's attorney asserts that the Department did not follow their policy when [REDACTED] spoke with Claimant by telephone and did not use a French language interpreter. It was unclear whether the argument is that it is the Department's fault that Claimant did not submit a complete Child Development and Care Provider Verification (DHS-4025) or that the Department's denial is invalid because of the asserted policy violation.

The parties do not dispute that Claimant did indicate the need of a French interpreter on the application or that [REDACTED] and Claimant had at least two telephone conversations about the CDC application without an interpreter. [REDACTED] testified that during the telephone conversations, Claimant was asked if she needed an interpreter and said she did not.

Claimant testified that: she was not aware that free interpreter services were available when she spoke with a Department representative; that [REDACTED] helped her with translations for some of her paperwork from the Department; that [REDACTED] did not provide any help with the Child Development and Care Provider Verification (DHS-4025); and when she spoke with [REDACTED] on the telephone, she did not ask if Claimant needed an interpreter.

Claimant's attorney refers to Bridges Administration Manual (BAM) 105 Rights and Responsibilities at pages 14-16, as the source of the Department's wrongdoing. The relevant portion of the referred policy section states:

Use of Interpreters

The following procedures are to be followed by employees, contracted service providers, and sub-recipients to ensure accessibility of programs and services to clients or applicants with LEP:

Assess the need for an interpreter and client's preferred language or method of communication from the application, client statement, family members or other representative.

Interpreters will be provided within two days of a request or as otherwise required. Delaying services may not always be practical or appropriate; therefore, provision will be made when advance notice for an auxiliary aid or interpreter is not given. Client files must be documented to indicate if an interpreter is needed. If so documented, the department or provider will arrange to have the interpreter available for all scheduled appointments. When the department refers a LEP client to a service provider, the department will notify the service provider that an interpreter is needed.

Record the need for special language accommodations and the applicant's primary spoken and written language on the Household Information screen in Bridges.

It is noted that during this hearing Claimant did not utter one word of English. Claimant's attorney implied that Claimant had no grasp of English at all and insisted that everything said during the hearing be translated for Claimant and that everything Claimant said be translated into English. It is relevant to point out that this time consuming process confirmed some important facts. Two or three times Claimant began speaking rapidly before the interpreter finished stating in English, what Claimant had said. Then [REDACTED] began stating that the interpreter was not providing an accurate translation of what

Claimant had said. It is also noted that prior to this hearing [REDACTED] stated she speaks French but did not feel her French was good enough to serve as the interpreter for this hearing. Claimant's concern over the accuracy of the interpreter's English translation of her statements shows that Claimant has at least a basic grasp of English.

It is also noted that Claimant needed Child Development and Care (CDC) because she had obtained employment at [REDACTED], Inc. Securing employment in an industrial setting without a basic grasp of English could be physically dangerous for the employee, legally dangerous for the employer and seems highly unlikely.

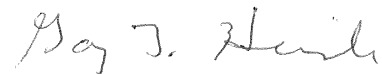
The Child Development and Care (CDC) application was completed in English. Both the Checklists (DHS-3503) and Child Development and Care Provider Verifications (DHS-4025) sent to Claimant were in English. Both the Child Development and Care Provider Verifications (DHS-4025) returned by Claimant met the requirements of being signed by Claimant and her identified care provider. Both forms had all the requested information filled in except for the "Date Care Began" for the children.

BAM 105, cited above requires that Department workers "Assess the need for an interpreter and client's preferred language or method of communication from the application, client statement, family members or other representative." Based on the totality of evidence in this record, there is no doubt that Claimant was able to interact with [REDACTED] on the telephone, using some amount of basic English. The evidence in this record supports the conclusion that [REDACTED] made a valid assessment that a French interpreter was not needed to speak with Claimant on the telephone.

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 acted in accordance with Department policy when it denied Claimant's September 25, 2015 Child Development and Care (CDC) application.

DECISION AND ORDER

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



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/29/2016**

GH/nr

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

