



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 20, 2017
MAHS Docket No.: 16-016199
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 November 30, 2016, from Lansing, Michigan. Petitioner was represented by herself. The Department was represented by Eligibility Specialist [REDACTED] and Hearing Facilitator [REDACTED]. Department's Exhibit A, pages 1-36 was admitted into evidence.

ISSUE

Did the Department properly determine Petitioner's Child Development and Care (CDC) program group?

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 6, 2016, Petitioner submitted an application for Child Development and Care (CDC) benefits. Petitioner's household consisted of: herself; [REDACTED]; [REDACTED]; [REDACTED], the child of Petitioner and [REDACTED]; and [REDACTED], Petitioner's child with [REDACTED].
2. On October 11, 2016, Petitioner was sent a Notice of Case Action (DHHS-1605) which stated Child Development and Care (CDC) was denied for both children because both parents/substitute parents did not have a need reason.

3. On October 24, 2016, Petitioner submitted a hearing request regarding the Child Development and Care (CDC) denial. Petitioner specifically identified her issue with the denial. Petitioner does not agree that [REDACTED] should be included in the CDC program group for determining [REDACTED]'s eligibility for CDC.

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.

Bridges Eligibility Manual (BEM) 205 CDC Group Composition (7-1-2016) provides:

DEPARTMENT POLICY

CDC

Group composition is the determination of which persons living together are included in the CDC program group. Use the definitions in this item to determine CDC group composition.

DETERMINING THE PROGRAM GROUP

When CDC is requested for a child, each of the following persons who **live together** must be in the program group:

Each child for whom care is requested.

Each child's legal and/or biological parent(s) or stepparent.

Each child's unmarried, under age 18, sibling(s), stepsiblings or half sibling(s).

The parent(s) or stepparent of any of the above sibling(s).

Any other unmarried child(ren) under age 18 whose parent, stepparent or legal guardian is a member of the program group.

CDC benefits were requested for [REDACTED]. Petitioner is in the CDC program group because she is [REDACTED]'s biological parent. [REDACTED] is in the CDC program group because

he is [REDACTED]'s half-brother. [REDACTED] is in the CDC program group because he is [REDACTED]'s parent.

Petitioner's grievance centers on dissatisfaction with the department's current policy. The claimant's request 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.

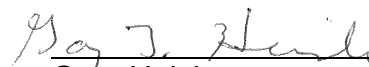
Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke 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).

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 determined Petitioner's Child Development and Care (CDC) program group.

DECISION AND ORDER

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

GH/nr



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

Petitioner

[REDACTED]