



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: July 17, 2018
MAHS Docket No.: 18-004734
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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; 42 CFR 438.400 to 438.424; 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 July 11, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Rechela Hall, Eligibility Specialist, and Michelle Christian, Family Independence Specialist.

ISSUE

Did the Department properly deny Petitioner's 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 February 26, 2018, Petitioner submitted an application for CDC benefits.
2. On February 28, 2018, the Department issued a Verification Checklist (VCL) seeking proof of Petitioner's need for CDC assistance shown by a work schedule or letter on letterhead explaining the work hours terms of employment; guardianship for the children in her care; residential address; and identity, with all proofs due by March 12, 2018.
3. On March 7, 2018, Petitioner submitted a document to the Department titled "Work Schedule for [REDACTED]" created by Petitioner listing all of Petitioner's daily

activities as a pastor, preacher, teacher, and author; this document is not typed on an official letterhead.

4. The Department also received proof of ongoing Child Protective Services Proceedings placing the children in a relative's (Petitioner's) care, Petitioner's identification, Notification of Required Foster Care Initial Medical and Dental Examination for the involved children, and Placement/Medical Authorization for the involved children to be placed with Petitioner.
5. On March 28, 2018, the Department issued a Notice of Case Action denying Petitioner's CDC application because the Department had not received verification of employment need for CDC and eligible provider care arrangement.

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.

In this case, the Department denied Petitioner's CDC application for benefits because she had not shown sufficient and covered employment related need. The goal of the CDC program is to support low-income families by providing access to high-quality, affordable, and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. BEM 703 (January 2018), p. 1. At application or redetermination, eligibility for CDC services exists when the department has established all of the following:

- There is a signed application and request for CDC services.
- Each child for whom CDC is requested is a member of a valid eligibility group.
- Each Parent/Substitute Parent (P/SP) meets the need criteria.
- All eligibility requirements are met.

Id. The child or children needing services must be under age 13 at the time of application, aged 13 to 18 when required due to court order or the child needs constant care to a condition, or age 18 requiring constant care because of a condition or court

order and is a full time high school student who is reasonably expected to complete high school before age 19. BEM 703, pp. 1-2.

The need requirement is met through a showing by the P/SP of family preservation, high school completion, an approved activity, or employment. BEM 703, p. 4. Each need reason must be evaluated separately to determine need hours. BEM 703, p. 5. Family Preservation includes situations where the P/SP is:

- Unavailable to provide care because they are participating in a court-ordered activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home.
- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an employment or educational need that is part of the child protective services/foster care services case plan.

BEM 703, p. 6. If the P/SP is enrolled full or part-time in a program leading to a high school diploma or equivalent, the need requirement can be met. BEM 703, pp. 8-9. Other approved activities to meet the CDC need requirement include Employment preparation and/or training activity or Post-secondary education. BEM 703, pp. 9-11. Finally, child care may be approved for P/SPs who are employed or self-employed and receive money, wages, self-employment profits or sales commissions. BEM 703, p. 11. The following items can be used to verify the need for CDC benefits based upon employment:

- A copy of a work schedule indicating the number of hours worked.
- Pay stubs indicating number of work hours.
- DHS-38, Verification of Employment, completed by the employer.
- TALX/Work Number and MIS (Management Information System).
- DHS-3569, Agricultural Worker Income Verification, completed by the employer.
- Signed statement by the employer that contains:
 - Employment begin date.
 - Number of hours the client works.
 - For income eligible clients, dates and amounts of client's paychecks for the requested period.
- Collateral contact with the employer if the employer refuses or is unable to complete the DHS-38, DHS-3569, or a signed statement, or if the client is unable to obtain his/her work schedule from the employer or the pay stubs do not indicate number of work hours. Complete the DHS-38 or DHS-3569 based on the information obtained from this contact.
- DHS-431, Self-Employment Income and Expense Statement.

BEM 703, p. 12.

Petitioner does not receive traditional wages or sales commissions through her various roles as pastor, preacher, teacher, and author. Arguably, Petitioner receives self-employment profits, but Petitioner has not provided the Department with a completed DHS-431 or tax return to verify her self-employment. In either case, neither party disputes that Petitioner receives money through “honorariums”-payment for services made in a volunteer capacity and where a fee is not generally set for services, as well as “love offerings”-a gift or donation for her speaking, preaching, and teaching. Since the policy lists “money” as a separate and distinct item from wages or sales commissions, and the list of items appears with the conjunction “or,” “money” must be given the same application as wages or sales commissions. Therefore, since the parties agree that Petitioner receives some money for her services, despite it being irregular, she has met this requirement of the policy. As a result, Petitioner’s argument from her hearing request that she did not receive sufficient time complete the self-employment form is moot.

However, in order for CDC benefits to be approved, there must be a clear schedule provided by Petitioner showing when she is unavailable and in need of child care assistance. Without a showing of need, CDC benefits cannot be approved. In this case, Petitioner provided the Department with a self-authored schedule in an attempt to explain all of her duties each day of the week. However, on most days of the week, the schedule is qualified and therefore, uncertain or unclear. For example, on Sundays, Petitioner explains that she has “Ministry at St Luke from 9am to 9 pm. I make hospital and nursing home visits as well. Occasionally there are afternoon and/or evening worship services.” If Petitioner is ministering at the church, she cannot simultaneously be ministering at the hospital or nursing home. In addition, when Petitioner indicates that she “occasionally” participates in afternoon and/or evening worship services, she suggests that she is not actually ministering from 9:00 AM until 9:00 PM every Sunday. On Fridays, Petitioner attends monthly Detroit Fire Department Chaplain Meetings from 9:00 until 11:30. She does not provide any detail about whether this is in the morning or evening nor does she provide information about whether this is the first, second, third, or fourth Friday of every month. The schedule as provided by Petitioner contains other areas where it is unclear what she is doing when. As a result, the Department is unable to obtain an understanding of when Petitioner needs CDC assistance and when she does not. Therefore, the Department’s decision to deny Petitioner’s CDC application is in accordance with Department policy.

Finally, the Notice of Case Action provides that Petitioner was also denied CDC benefits because she had not provided proof of an eligible provider/care arrangement. Neither party presented any arguments or evidence regarding this issue during the hearing. Therefore, this issue will not be addressed by this decision.

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 Petitioner's application for CDC benefits.

DECISION AND ORDER

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



AMTM/

Amanda M. T. Marler
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) 763-0155; 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

Randa Chenault
MDHHS-Oakland 3-Hearings

Petitioner

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