

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],  
Claimant

Reg. No: 2009-33880  
Issue No: 6019  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
July 1, 2010  
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on July 1, 2010. The claimant personally appeared and provided testimony.

ISSUES

1. Did the department properly determine the claimant was excess income to receive Child Development and Care (CDC) benefits?

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's CDC case came due for a Semi-Annual review in May, 2009. On May 18, 2009, the claimant submitted the completed Semi-Annual Contact Report and verifications, including paycheck stubs. (Department Exhibit 28 – 37)

2. When the department budgeted the claimant's income, she was excess income to receive CDC benefits. (Department Exhibit 3)

3. The claimant reapplied for CDC benefits on July 9, 2009. (Department Exhibit 6– 10)

4. Again the claimant was excess income to receive CDC benefits and her application was denied. (Department Exhibit 2, 3)

5. The claimant submitted a hearing request on July 23, 2009.

### CONCLUSIONS OF LAW

The Child Development and Care 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 of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

#### **INCOME ELIGIBLE**

If the program group does not qualify for one of the categorically eligible groups, determine eligibility for the income eligible group.

Eligibility for this group is based on program group size and non-excluded income received by any member of the program group. (See program group definition in PEM 205).

CDC payments may be provided for income eligible clients who:

- . do not qualify as a member of a categorically eligible group;

- . have a valid need reason;
- . pass the income eligibility test;
- . cooperate with child support requirements (see PEM 255);  
and
- . have child(ren) needing care who meet the U.S. citizenship/alien status requirements as described in PEM 225.

Test the program group's countable income against the Child Development and Care Income Eligibility Scale found in PRT 270, page 1. Department Pay Percent (PEM 705) varies depending on program group size and countable income for all program group members.

Eligibility for CDC for income eligible ends when:

- . the requirements are no longer met, or
- . the family has excess income, or
- . the need no longer exists. PEM, Item 703, pp. 14-15.

## **CDC INCOME BUDGET**

### **DEPARTMENT POLICY**

For Income Eligible CDC determinations, the income of all program group members must be considered. Some types of income are excluded.

See PEM 500 for a detailed description of income types, exclusions, treatment of income including lump sums, and required verifications. PEM, Item 525, p. 1.

### **Computation of Income**

Use the gross (before deductions) countable, monthly income to determine the amount the department will pay (Department Pay Percent) towards the group's child care costs.

See PEM 505 for details on when a budget is needed, income and benefit month definitions, and the conversion of income to a monthly figure. PEM, Item 525, p. 1.

### **Wages**

### **All Programs**

**Wages** are the pay an employee receives from another person or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefits plan funds.

Count an employee's regular wages paid during a vacation or illness as earned income.

Count a wage advance as earnings when the employer actually pays it. Do NOT count the money withheld to offset the advance.

Count wages held by the employer at the request of the employee. However, wages held as a general practice by the employer are NOT income until actually paid.

**Exception:** Income received in one month that is intended to cover several months (e.g., contractual income) is considered available in each of the months covered by the income.

Count gross wages except as explained in this item for:

- . "EIC"
- . "Flexible Benefits"
- . "Strikers"
- . "Student's Earnings"

PEM, Item 500, p. 15.

Department policy requires a claimant who wishes to receive CDC benefits to meet the income eligibility test. Program Reference Table 270 lists the group size and gross monthly income limits for CDC services to be approved. The claimant's program group is two individuals. The highest income the claimant can earn and still receive CDC services is \$1571 – 1607. There is no DHS assistance with CDC services if the claimant's gross income is over \$1607.

In this case, the claimant's gross income was over \$1607 at the Semi-Annual Contact Report and when she reapplied for CDC benefits. When the claimant turned in paycheck stubs

for her Semi-Annual Review in May, 2009, the gross amounts were \$900 and \$921.60 (client is paid biweekly). The average of these two amounts is multiplied by 2.15 in accordance with policy. This would provide a gross monthly average of \$1958.22, which is over the maximum allowed for CDC services.

Similarly, when the claimant reapplied, she again turned in paycheck stubs. The claimant's paycheck amounts were even higher at this time. For instance, the two dated June 15 and June 30, 2009 had gross amounts of \$1011.09 and \$1243.06, respectively. Averaged out and multiplied by 2.15 results in \$2423.21. Thus, the claimant is clearly excess income for CDC services.

It is also noted that this is not even including any child support income, which the claimant receives sporadically.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined the claimant was excess income to receive CDC benefits.

Accordingly, the department's determination is UPHELD. SO ORDERED.

/S/  
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Suzanne L. Keegstra  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: July 29, 2010

Date Mailed: July 29, 2010

**NOTICE:** Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

SLK [REDACTED]

cc: [REDACTED]