

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-10521
Issue No.: 1018
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 20, 2010
DHS County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 20, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible for Child Development and Care (CDC) benefits?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material, and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. In 2009, Claimant received CDC benefits.
2. In July 2009, Claimant began receiving child support payments.
3. On July 15, 2009, DHS discontinued Claimant's CDC benefits based on her unearned income.
4. On July 23, 2009, Claimant requested a hearing.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. 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. DHS provides services to adults and children pursuant to MCL 400.14(1) and Michigan Administrative Code Rules 400.5001-400.5015. DHS policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

BEM Item 500, which is titled “Income Overview,” defines the word “income:”

Income means a benefit or payment received by an individual which is measured in money.... Unearned income is all income that is not earned.... Gross income is the amount of income before any deductions such as taxes or garnishments. This may be more than the actual amount an individual receives.... Count all income that is **not** specifically excluded. BEM 500, p. 3 of 12 (bold print in original).

Unearned income is discussed in detail in BEM Item 503, “Income, Unearned.” BEM 503 identifies all of the types of unearned income, it defines each type, and it indicates for each type of unearned income, whether is it included as countable income for the different types of assistance. BEM 503.

The forty-nine categories of unearned income are: accelerated life insurance payments, adoption subsidies, Agent Orange payments, alien sponsor income, American Indian payments, black lung, child allocation, child foster care payments, **child support**, death benefits, donations/contributions, educational assistance (not work study), factor concentrate litigation settlement (*Walker v Bayer*), flexible benefits, foster grandparents, government aid (including Medicaid), home equity conversion plans, individual development accounts, insurance payments for medical expenses, interest and dividends directly to client, Japanese and Aleut payments, jury duty, lease of natural resources, loan proceeds, Michigan Rehabilitation Services payments, military allotments, Nazi Victims Compensation, Older American Volunteer Program, radiation exposure compensation, Railroad Retirement Board benefits, Retired Senior Volunteer Program (RSVP), retirement income-other, Retirement, Survivors and Disability Insurance (RSDI) (AKA Social Security benefits), Ricky Ray Hemophilia Relief Act, sale of property in installments, SCORE or ACE, sick and accident insurance payments, spousal support, strike benefits, Supplemental Security Income (SSI), tax refunds and tax credits, trust payments, unemployment benefits, urban crime prevention, U.S. Civil Service and Federal Employee Retirement System, veterans benefits, VA pension and compensation, workers compensation, and Youthbuild. *Id.*, pp. 2-28. (Emphasis added.)

I find and conclude that this section of the manual clearly identifies child support as a type of unearned income. I determine that Claimant's child support payments are unearned income. In this case, it is undisputed that Claimant's unearned income is at a level that makes her ineligible for CDC benefits. I find and conclude that Claimant's child support income causes her to be ineligible for CDC benefits. Claimant is not eligible for CDC benefits effective July 15, 2009, and DHS is AFFIRMED. DHS need take no further action.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, AFFIRMS DHS' closure of Claimant's CDC benefits award. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 25, 2010

Date Mailed: October 25, 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.

JL/pf

cc:

