

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: 2010-15984
Issue No: 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 7, 2010
Otsego County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 April 7, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly terminate claimant's Child Development and Care (CDC) payments in November, 2009?

FINDINGS OF FACT

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

1. Claimant was a CDC recipient when her case came due for a yearly review.
2. On September 15, 2009 department mailed the claimant redetermination forms with a due date for return being October 1, 2009, but apparently to an address she had moved from several months previous, something department claims they had no knowledge of.

3. Claimant did not return the redetermination form and department took action to terminate her CDC benefits on October 19, 2009. Claimant subsequently provided the redetermination form after another one was sent to her, a computer printout of six months of income from May 1-October 30, 2009 with total hours 960 and hourly rate of \$9.18, and a pay stub dated October 30, 2009 with a note stating this is the only pay stub she had at the time.

4. Department's caseworker concluded she could not use the computer printout of claimant's earned income to figure her ongoing CDC eligibility. Claimant's CDC benefits closed on November 8, 2009. Department re-opened claimant's CDC benefits on December 14, 2009 and claimant lost 5 weeks of CDC payments.

5. Claimant requested a hearing on December 16, 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

The issue for this hearing is whether the claimant provided timely, sufficient verification of her employment income to the department in order for her CDC benefits not to have been terminated. Department received verification of claimant's employment income on October 30, 2009, prior to CDC case closure of November 8, 2009. Departmental policy does state that the

client must obtain required verification, but that DHS staff must assist if they need and request help. BEM 130. It is apparent that the claimant was attempting to provide requested income verification and was under the impression she did so on October 30, 2009. Hearing testimony from the department is that the claimant's caseworker was not required to contact her and tell her that the income information she provided was insufficient, even though claimant's CDC benefits were still active and did not close until 8 days later. Department's testimony is also that the claimant failed to report a change of address, something she disputes, and this is the reason why she did not receive the redetermination form mailed to her in September, 2009.

Claimant provided a computer printout of her employment income from May 1, 2009 through October 30, 2009. This printout shows 960 hours worked and divided by 6 months results in 160 hours per month the claimant works, or 80 hours every two weeks. Claimant provided a pay stub for October 30, 2009, a Friday, with 70.50 hours worked, clearly showing she gets paid every 2 weeks. Both the computer printout and claimant's pay stub show her hourly rate as \$9.18. This Administrative Law Judge asked why the department did not use this information to compute claimant's CDC ongoing eligibility, as it appears sufficient to do so. Department responds that the auditors do not accept averaging employment income, and department therefore must have last 30 days of income information.

Departmental policy states that for CDC a group's financial eligibility and monthly benefit amount are determined using either actual income (income that was already received), or prospected income amounts (not received but expected). For current and future months policy directs that income be prospected using a best estimate of income expected to be received during the month (or already received). Policy also states to seek input from the client to establish an estimate, whenever possible. To prospect income, a caseworker needs to know the type of

income and the frequency it is received (such as, weekly), the day(s) of the week paid, the date(s) paid, and the gross income amount received or expected to be received on each pay date. For non-child support income, department is to use past income to prospect income for the future unless changes are expected. Income from the past 30 days can be used if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505.

In claimant's case department did have sufficient information regarding claimant's income (simple calculation of 80 hours every 2 weeks multiplied by \$9.18 per hour, then multiplied by 2.15 as claimant gets paid bi-weekly) to determine claimant's future CDC eligibility. Even if department concluded that additional information was needed after receiving income information on October 30, 2009 (something the Administrative Law Judge disagrees with), claimant should have been contacted in the 8 days prior to CDC case closure to request such information, as she was making an effort to provide what was asked of her.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department incorrectly terminated claimant's CDC benefits in November, 2009.

Accordingly, department's action is REVERSED. Department shall:

1. Complete a CDC budget based on income information provided by the claimant, for the period of time from November 8, 2009 to December 14, 2009, when claimant's CDC case was re-opened.
2. Issue any CDC benefits for the cited period of time claimant is found eligible for.
3. Notify the claimant in writing of this determination.

SO ORDERED.

/s/
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 19, 2010

Date Mailed: April 19, 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.

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