

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: 2010-1309
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 9, 2009
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Marya A. Nelson-Davis

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 December 9, 2009.

ISSUE

Did the Department properly determine that Claimant was not eligible for Child Development and Care (CDC) benefits due to excess income?

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 who was receiving fluctuating earned income at all times relevant to this matter.
- (2) At all times relevant to this matter, Claimant's household included her spouse, who was receiving earned income, and their four children.

(3) Claimant received the following gross earned income on the following dates:

██████████ on September 19, 2008; ██████████ on October 3, 2008; ██████████ on October 17, 2008; ██████████ on October 31, 2008; ██████████ on November 14, 2008; ██████████ on November 26, 2008; ██████████ on December 12, 2009; ██████████ in December 2009; ██████████ on January 9, 2009; ██████████ on January 23, 2009; ██████████ on February 6, 2009; and ██████████ on February 20, 2009.

(4) Claimant's spouse received the following gross earned income on the following dates: ██████████ on January 16 & 13, and February 6 & 13; ██████████ on January 30; and ██████████ on February 20, 2009.

(5) On February 5, 2009, Claimant informed the Department that her spouse works 40 hours per week at a rate of ██████████ per hour.

(6) The Department's computer information system, Bridges, closed Claimant's CDC case effective February 5, 2009, without giving Claimant proper notice that she was no longer eligible for CDC.

(7) On February 25, 2009, the Department received Claimant's hearing request, protesting the closure of her CDC case.

(8) Claimant's February 2009 Hearing Request was forwarded to the State Office of Administrative Hearings and Rules (SOAHR).

(9) The Department determined that although Claimant would no longer be eligible for CDC due to excess income, Bridges closed her case too quickly.

(10) On or about March 4, 2009, the Department did a CDC Manual Authorization of CDC benefits for all of Claimant's children for the pay period of February 2, 2009 to February 14, 2009.

(11) On April 15, 2009, SOAHR sent Claimant a letter stating that her hearing would not be scheduled because it received notice from the Department that her issue had been resolved.

(12) On September 1, 2009, the Department received Claimant's hearing request protesting the determination that she is no longer eligible for CDC due to excess income.

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 Bridges Reference Manual (BRM).

Group composition is the determination of which persons living together are included in the FAP program group. The relationships of the people who live together affect whether they must be included or excluded from the group. Spouses who are legally married and live together must be in the same group. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. A person acting as a parent and the children for whom he or she acts as a parent who live with him must be in the same group. BEM 212

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 and each child's parent(s) or

stepparent and each child's unmarried, under age 18, sibling(s), stepsiblings or half sibling(s) and the parent(s) or stepparent of any of the above sibling(s) and any other unmarried child(ren) under age 18 whose parent, step-parent or legal guardian is a member of the program group.

BEM 205

All earned and unearned income available to the Claimant's is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. **Prospective budgeting is the best estimate of the client's future income.** The Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. For fluctuating or irregular income, the Department is required to use income from the past 60 or 90 days if the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days are an accurate reflection of the income that the client expects to receive in the benefit month. BEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505

For CDC purposes, income increases that result in a department pay percentage decrease and/or CDC case closure must affect the first CDC pay period that begins after the end of the

pend period, if timely notice is required. Otherwise, the Department must enter the change to affect the first pay period that begins after you take action on the change. BEM 505

The CDC group consists of each child for whom care is requested **and** each child's parent(s) **and** any other unmarried child(ren) under the age of 18 whose parent, stepparent or legal guardian is a member of the CDC group. PEM Item 205. Claimant's CDC group consisted of herself, her spouse, and four children. According to PRT 270, a CDC family group size of six cannot have gross monthly countable income over [REDACTED]

Claimant's spouse was expected to receive [REDACTED] in earned income on a weekly basis. Therefore, his prospective countable monthly income would be [REDACTED] x 4.3 weeks).

This Administrative Law Judge finds that the past 30 days of Claimant's fluctuating income for the time period in question was not a good indicator of income that she was expected to receive in the future. Therefore the past 60 or 90 days of fluctuating income should have been used to determine Claimant's prospective countable monthly income. In order to remain eligible for CDC, Claimant could not have prospective countable monthly gross income over [REDACTED] since her spouse's prospective countable monthly income was [REDACTED]. In this case, Claimant's prospective countable monthly income exceeded [REDACTED]. Claimant received [REDACTED] for the period of January and February 2009. The average biweekly income for that 60-day look-back period was [REDACTED] which would result in prospective monthly income of [REDACTED]. Claimant received earned income in the total amount of [REDACTED] for the period of December 2008 through February 2009. The average biweekly income was [REDACTED] for that 90-day look-back period, which would result in prospective monthly income of [REDACTED]. Further, Claimant's total prospective countable monthly income would exceed [REDACTED] even if the

Department considered all of the fluctuating income that she received during the period of September 2008 through February 2009.

In conclusion, the Department properly determined that Claimant would no longer be eligible for CDC on the basis that the total prospective countable income of her household exceeded her CDC income limit of [REDACTED]

Claimant's representative argued that the Department failed to properly determine Claimant's Food Assistance Program (FAP) benefits, beginning February 2009. However, Claimant was given an administrative hearing on this issue. On May 19, 2009, Administrative Law Judge Gary F. Heisler issued a Decision and Order (D & O), ordering the Department to redetermine Claimant's FAP eligibility. The DHS local office manager or hearings coordinator is responsible for following up to ensure implementation of the D & O is completed. (BAM 600)

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly determined that Claimant had excess income for CDC purposes.

Accordingly, the Department's CDC eligibility determination is AFFIRMED.

/s/ _____
Marya A. Nelson-Davis
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: February 8, 2010

Date Mailed: February 9, 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 receipt 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.

MAND/db

cc:

