

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: 2010-14220
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 4, 2010
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on November 23, 2009. After due notice, a telephone hearing was held on Wednesday, August 4, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Child Development and Care (CDC) eligibility?

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 applied for CDC benefits on October 5, 2009.
- (2) The Claimant receives monthly self-employment income in the gross monthly amount of [REDACTED]. Department Exhibit 119.

(3) On November 6, 2010, the Department denied the Claimant's CDC application due to excess income. Department Exhibit 130 – 132.

(4) The Department received the Claimant's request for a hearing on November 23, 2009, protesting the denial of her CDC application.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. If allowable expenses exceed the total proceeds, the amount of the loss cannot offset any other income except for farm loss amounts. BEM 502. Allowable expenses include all of the following:

- Identifiable expenses of labor, stock, raw material, seed, fertilizer, etc.
- Interest and principal on loans for equipment, real estate or income-producing property.
- Insurance premiums on loans for equipment, real estate and other income-producing property.

- Taxes paid on income-producing property.
- Transportation costs while on the job (example: fuel).
- Purchase of capital equipment.
- A child care provider's cost of meals for children. Do not allow costs for the provider's own children. BEM 502.

Expenses that are not allowable include the following:

- A net loss from a previous period.
- Federal, state and local income taxes.
- Personal entertainment or other individual business expenses.
- Money set aside for retirement.
- Depreciation on equipment, real estate or other capital investments.

BEM 502.

The Claimant applied for CDC benefits on October 5, 2009. The Claimant receives monthly self-employment income in the gross monthly amount of [REDACTED]. On November 6, 2010, the Department denied the Claimant's CDC application due to excess income after reducing her self-employment by a flat 25%.

The Claimant supplied the Department with over 100 pages of receipts as verification of expenses incurred while earning self-employment income. The Department testified that several of the Claimant's credit card receipts contain expenses, such as food and cigarettes, which policy does not permit a CDC applicant to deduct from self-employment income.

However, these same receipts also include expenses for diesel fuel and Department policy does not permit transportation costs to be deducted from self-employment income.

BEM 502. Department policy does not require separate business receipts for allowable and non-allowable expenses.

The Department testified that several of the Claimant's check receipts contain handwritten notes as verification of the self-employment expense.

However, Department policy does not distinguish between handwritten and printed verification for self-employment expenses. The Department did not offer any evidence that suggests that the Claimant's verification documents are fraudulent.

The Department testified that the receipts the Claimant submitted are not sufficiently organized to determine the total of her actual self-employment expenses.

However, the Department did not offer any evidence that it attempted to separate the allowable from the non-allowable expenses to determine the Claimant's actual self-employment expenses. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. BEM 502. In this case, the Claimant did choose to claim and verify her expenses. The Department did not offer evidence that the allowable expenses contained in the Claimant's receipts were less than 25 percent of her self-employment income. Furthermore, there is no evidence that the Department gave the Claimant a reasonable opportunity to resolve any discrepancies between her statement's and the receipts she provided. BEM 130, Page 6.

The Department failed to establish that it properly determined the Claimant's self-employment expenses when it denied the Claimant's application for CDC benefits based on excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not establish that it properly determined the Claimant's eligibility for CDC benefits.

Accordingly, the Department's CDC eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for CDC benefits as of her application date of October 5, 2009.
2. Give the Claimant a reasonable opportunity to clarify her self-employment expenses.
3. Provide the Claimant with written notification of the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2010

Date Mailed: August 13, 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 60 days of the filing of the original request.

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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.

KS/vc

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