

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: 2010-17935  
Issue No: 6019  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
April 21, 2010  
Ottawa 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 April 21, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's Child Development and Care (CDC) services for the time period of November 21, 2009 through January 17, 2010?

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 November 18, 2009.
2. On December 9, 2009, a Verification of Employment (DHS-38) was sent to the claimant's employer to be completed. The form indicates that the claimant began working on November 16, 2009. The employer completed the form on December 20, 2009 and only

provided two weeks of paycheck information (as the claimant had only worked two weeks).

(Department Exhibit 4 – 5)

3. On January 14, 2010, the department called the claimant's employer to receive more income information. The employer verbally gave DHS three more weeks of income information. (Department Exhibit 4 – 5)

4. When the income was budgeted for the claimant, the claimant was excess income for November 22, 2009 through January 16, 2010. (Department Exhibit 10 -13)

5. The claimant was mailed two Notices of Case Action (DHS-1605) on January 14, 2010 and January 27, 2010. The first informed her that she was approved for CDC services from November 8 – November 21, 2009. The second informed her that she was approved for CDC services from January 17, 2010 ongoing. (Department Exhibit 1 – 3, 17 – 19)

6. The claimant submitted a hearing request on January 21, 2010.

#### 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 indicates:

#### **INTRODUCTION**

Eligibility for Child Development and Care services exists when the Department has established **all** of the following:

- . There is a **signed application** requesting CDC services, **and**
- . each parent/substitute parent (see Parent/Substitute Parent section in this item) is a member of a valid **ELIGIBILITY GROUP, and**
- . each parent/substitute parent (P/SP) meets the **NEED (Reason)** criteria as outlined in this item, **and**
- . an eligible provider is providing the care, **and**
- . all eligibility requirements are met. PEM, Item 703, p. 1

### **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.

### **Temporary Ineligibility**

Case closure is not required if all of the following conditions exist:

- . ineligibility will exist for only two consecutive CDC pay periods because the conditions resulting in excess income are not expected to recur in the following month, and
- . the group is currently active for CDC, and
- . the group exceeded the Department Pay Percent Income Eligibility Scale in PRT 270.

Suspend benefits by ending the CDC authorizations on CIS for the pay period following the timely notice period. Ineligibility exists for a minimum of 2 pay periods. The group remains active and does not have to reapply for CDC.

Temporary ineligibility is limited to two pay periods. Close the case if the group is ineligible after the two pay period suspension period is over, allowing timely notice for closure. PEM, Item 525, p. 2.

## **PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING**

### **DEPARTMENT PHILOSOPHY**

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

### **DEPARTMENT POLICY**

#### **FIP, SDA, CDC and FAP**

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

### **DETERMINING BUDGETABLE INCOME**

#### **FIP, SDA, CDC, FAP**

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

#### **Past Months**

Use actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. See Standard Monthly Amount in this item.

**Exception:** Prospective income may be used for past month determinations when:

- . income verification was requested and received, and
- . payments were received by the client after verifications were submitted, and
- . there are no known changes in the income being prospected. PEM, Item 505, p. 2.

### **Current and Future Months**

Prospect income using a “best estimate” of income expected to be received during the month (or already received). Seek input from the client to establish an estimate, whenever possible. PEM, Item 505, p. 2.

To prospect income, you will need to know:

- . the type of income and the frequency it is received (e.g., 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. PEM, Item 505, p. 2.

### **BUDGETING INCOME**

Use the following guidelines to budget income.

#### **Non-Child Support Income**

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

**Note:** The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

**Discard** a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, 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 appear to accurately reflect the income that is expected to be received in the benefit month.

**Note:** The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

### **Standard Monthly Amount**

#### Stable and Fluctuating Income

A standard monthly amount must be determined for each income source used in the budget.

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- . Multiply weekly income by 4.3.
- . Multiply amounts received every two weeks by 2.15.
- . Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

**Exception:** Do not convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. PEM, Item 505, p. 7.

The claimant applied for CDC services on November 18, 2009. The claimant was determined to be excess income to receive CDC benefits from November 22, 2009 through

January 16, 2010. The claimant did receive CDC benefits from November 8 through November 21, 2009 and from January 17 – ongoing.

Department policy requires the department to budget the claimant's income using actual gross income amounts received for past month and then converting to a standard monthly amount. BEM 505. The claimant is paid weekly. Thus, department policy provides that the department must take a weekly average and multiply by 4.3. BEM 505.

In this case, the department did take the last 30 days of income and use that as the estimate amount. The department used the December 4, December 11, December 18 and December 25, 2009 paycheck amounts to determine the claimant's CDC eligibility. The gross income from each of these paychecks added together is \$1519.10. This computes to a weekly average of \$379.775. Multiplying this by the multiplier of 4.3 (claimant is paid weekly) provides an average gross income of \$1633.

Program Reference Table 270 provides the income limits for a claimant to receive CDC benefits. For a group size of 2, the claimant can not have income over \$1607 to qualify for CDC benefits. Thus, the claimant's income of \$1633 was excess income to receive benefits. Once the claimant's income decreased to where she was not excess income, she was again eligible for CDC services and was approved as of January 17, 2010.

It is noted that the claimant submitted a hearing request on her Food Assistance Program (FAP) benefits, in addition to CDC services. However, the claimant testified at the hearing that she had no issues with her FAP benefits. Thus, FAP is not addressed in this decision.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly budgeted the claimant's CDC benefits and properly

denied the CDC benefits for the time period of November 21, 2009 through January 17, 2010, as the claimant was excess income.

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

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

Date Signed: May 11, 2010

Date Mailed: May 11, 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 

cc: 