

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: 201049384
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 30, 2010
Jackson 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 June 28, 2010. After due notice, a telephone hearing was held on Thursday, September 30, 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 was an ongoing CDC recipient until July 4, 2010.
2. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]
3. The Department completed a CDC budget, which determined that the Claimant was not eligible for CDC benefits due to excess income.
4. The Department received the Claimant's request for a hearing on June 28, 2010, protesting the closure of her CDC benefits.

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 M.A.C.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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. 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. 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.

The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]. This amount was determined from the two paychecks of \$ [REDACTED] and \$ [REDACTED] that the Claimant earned on March 4, 2010, and March 18, 2010, and multiplying the average by the conversion factor of 2.15. The CDC income eligibility limit for a group of two is \$ [REDACTED] RFT 270.

The Claimant argued that her CDC benefits should not be completely cut off due to her increase in income, but that the Department should reduce its subsidy level instead.

The Claimant argued that the Department's denial of her CDC application ten days later is an unnecessarily harsh as applied to her situation. However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative

Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

Since the Claimant's monthly income is greater than the income eligibility limit, the Department has established that it properly determined that the Claimant is not eligible to receive CDC benefits due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's CDC eligibility.

The Department's CDC eligibility determination is AFFIRMED. It is SO ORDERED.

_____/s/

Kevin

_____ Scully

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

Date Signed: October 21, 2010

Date Mailed: October 22, 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.

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.

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