

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-12828
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: February 23, 2011
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on February 23, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Child and Development Care (CDC) benefits due to excess income.

FINDINGS OF FACT

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

1. Claimant was an ongoing CDC benefit recipient.
2. Claimant is part of a group size of two persons that include Claimant and her minor child.
3. On 10/6/10, Claimant received gross employment income of \$752 for performing 80 hours of work within a two week period (see Exhibit 4).
4. On 10/20/10, Claimant received gross employment income of \$752 for performing 80 hours of work within a two week period (see Exhibit 5).
5. In 11/2010 DHS redetermined Claimant's CDC benefits.

6. On an unspecified date, DHS determined that Claimant was ineligible for CDC benefits effective 1/2/11 due to excess income.
7. On 12/20/10, Claimant requested a hearing disputing the termination of 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 (formerly known as the Family Independence Agency) 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) and the Reference Tables Manual (RFT).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required at least every 12 months. *Id.* In the present case, DHS redetermined Claimant's case and found that Claimant was no longer eligible for CDC benefits due to excess income.

It was not disputed that Claimant's only income was from employment. DHS is to prospect income for the future unless changes are expected. BEM 505 at 4. For non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*

DHS used Claimant's gross pays from 10/6/10 and 10/20/10 to prospect Claimant's income. Claimant admitted that these pays were representative. In fact, Claimant's pays from 11/2010 included additional hours so DHS appeared to use the most favorable pays to determine Claimant's CDC benefit eligibility.

In determining CDC benefit eligibility, DHS is to count the gross employment income amount. BEM 501 at 5. Claimant objected to the DHS usage of Claimant's gross income to prospect her income but this usage is mandated by DHS regulations. It is found that DHS properly used Claimant's average gross employment income rather than her net to determine Claimant's income eligibility for CDC benefits. Claimant's biweekly gross employment income was \$742.

DHS converts biweekly non-child support income into a 30 day period by multiplying the average income by 2.15. BEM 505 at 6. Claimant also objected to this calculation and asserted that her average biweekly income should have been multiplied by 2, not 2.15.

The conversion to a monthly period by multiplying biweekly income by 2.15 is mandated by DHS regulations and was proper.

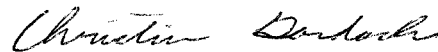
Multiplying Claimant's biweekly gross employment income by 2.15 results in a monthly countable income amount of \$1616 (dropping cents). DHS actually calculated a slightly lower amount (\$1614) on their budget (see Exhibit 3). As DHS determined a more favorable income for Claimant than calculated here, the undersigned will adopt the DHS determined amount as correct.

DHS is to test the program group's countable income against the Child Development and Care Income Eligibility Scale found in RFT 270 page 1. BEM 703 at 13. Department Pay Percent varies depending on program group size and countable income for all program group members. The monthly CDC gross income limit for a two person group (Claimant and her minor child) is \$1607. RFT 270 at 1. Claimant's gross income (\$1614) exceeds the gross income limits for CDC eligibility. It is found that DHS properly terminated Claimant's CDC benefits due to excess income by Claimant.

As discussed during the hearing, Claimant's income barely exceeded the gross income limits. Claimant was encouraged to reapply for CDC benefits if her gross income is decreased even slightly.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's CDC benefits effective 1/1/11 due to excess income. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 3/1/2011

Date Mailed: 3/1/2011

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.

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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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