

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-27429
Issue No. 6019
Case No. [REDACTED]
Hearing Date: June 2, 2011

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]'s request for a hearing. After due notice, a telephone hearing was held on June 2, 2011. The Claimant appeared and testified. [REDACTED], Eligibility Specialist, and [REDACTED] Family Independence Manager, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's application for Child Development and Care (CDC) benefits?

FINDINGS OF FACT

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

1. On February 15, 2011, Claimant applied to DHS for CDC benefits.
2. On March 11, 2011, DHS sent Claimant a Verification Checklist requesting income information. DHS gave Claimant a due date of March 21, 2011.
3. On March 22, 2011 DHS issued a Notice of Case Action, informing her that her application for CDC benefits was denied.

4. On April 1, 2011, Claimant submitted verification from [REDACTED], her employer, of her March wages, and a personal statement that she earned \$850 in tips in May (sic), 2011.
5. Also on April 1, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

CDC was established by Titles IVA, IVE and XX of the U.S. Social Security Act, the U.S. Child Care and Development Block Grant of 1990, and the U.S. 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. DHS provides CDC benefits to adults and children pursuant to MCL Section 400.14(1) and Michigan Administrative Code Rules 400.5001-5015. DHS' CDC policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals can be found online at www.michigan.gov/dhs-manuals.

BAM, BEM and RFT are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

The Department has cited as authority for its actions BEM 703, "CDC Program Requirements." BEM 703 states that clients who are receiving CDC because they are eligible based on their income must provide verification of need. Claimant is in this category and is required to provide verification of need.

4. Employment

CDC payments may be approved for clients who are employed or self-employed and receive money, wages, self-employment profits or sales commissions within six months of the beginning of their employment.

Tools to Verify Need Based on Employment

Use one of the following as tools to verify the **need** for CDC based on **employment**:

- **Signed statement** by the employer that contains:
- Employment begin date.
- Number of hours client works.
- For income eligible clients, dates and amounts of client's paychecks for the requested period. BEM 703, p. 10 (boldface in original).

The evidence in this case contains exactly such a document from Claimant's employer, the [REDACTED]. I find and conclude that Claimant fulfilled the BEM 703 requirements

regarding verification of her need for CDC services. Claimant has been employed at the [REDACTED] since August, 2001 she works 30-34 hours per week, and the verification submitted contains her weekly pay amounts for the month of March 2011, totaling \$360.40 for the entire month.

I find and conclude that the verification from Claimant's employer is legally sufficient to establish her need status, that is, that she is a customer in need of childcare services. BEM 703 does not require the customer to verify their complete earnings, but only to verify the starting date, number of hours worked, and paycheck amounts. *Id.* I find and conclude that Claimant has produced the exact information that is required, and that DHS erred in denying benefits based on lack of need.

I further find and determine that the Claimant's handwritten statement of income from tips is legally sufficient to establish her tip income pursuant to BEM 500, "Income Overview," and BEM 501, "Income from Employment." BEM 501 specifically states that tips are income, and BEM 500 specifically states that a written client statement is sufficient to verify income. BEM 500, p. 10; BEM 501, p. 5. I find and conclude that DHS erred in failing to accept Claimant's handwritten statement of her income from tips in this case. I find and conclude that Claimant's handwritten statement is legally sufficient verification of tip income and may be used for all appropriate DHS purposes.

In conclusion, based on the findings of fact and conclusions of law above, I REVERSE DHS' denial of Claimant's CDC benefits. DHS shall reinstate these benefits, redetermine Claimant's eligibility, and provide supplemental retroactive CDC benefits to her in accordance with DHS policies and procedures.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge REVERSES DHS' action in this case. IT IS HEREBY ORDERED that DHS shall reinstate Claimant's CDC benefits and provide appropriate supplemental retroactive CDC benefits as appropriate, in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 13, 2011

Date Mailed: June 13, 2011

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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.

JL/cl

cc:

