

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-31339

Issue No: 6019

[REDACTED]
[REDACTED]
Mason County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on April 27, 2011. After due notice, a telephone hearing was held on June 1, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly closed Claimant's Child Development and Care (CDC) benefit program?

FINDINGS OF FACT

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

1. Claimant was receiving CDC at all times pertinent to this hearing. (Hearing Summary).
2. Claimant's CDC group size is 3.
3. Claimant's husband receives Unemployment Compensation Benefits (UCB) of \$596.00 every two weeks. (Department Exhibits 11-12).
4. On March 22, 2011, the department mailed Claimant a Notice of Case Action informing Claimant that her CDC benefits were being closed effective April 1, 2011, because her group was not eligible because a parent/substitute parent does not have a need for child day care services due to employment, education or family preservation reasons and her gross income exceeded the income limit. (Department Exhibits 3-4).

5. Claimant submitted a hearing request on April 27, 2010 protesting the closure of CDC benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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) and the Reference Tables Manual (RFT).

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BEM 703. The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

Group composition for CDC is the determination of which persons living together are included in the CDC program group. Program group means those persons living together whose income must be counted in determining eligibility for CDC categories that require an income determination; see BEM 703, Eligibility Groups. Living together means sharing a home except for temporary absences.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. This section specifies who must demonstrate those valid need reasons. There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of (1) Family

preservation; (2) High school completion; (3) An approved activity or (4) Employment. BEM 703.

In two parent households, both parents' need reasons must be verified with the appropriate verification. Determination of eligibility must be made in the following descending order. CDC Payments for Family Preservation may be approved for P/SPs who are:

- Unavailable to provide care because they are participating in a court-ordered rehabilitative activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home.
- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an educational need which is part of the foster care services plan.

Allowable conditions may include, but are not limited to the following:

- Disability or mental disturbance.
- Chronic health conditions.
- Drug/alcohol abuse.
- Social isolation.
- History of child abuse/neglect in family or poor, inadequate parenting.
- Domestic violence.

Allowable treatment activities may include, but are not limited to the following:

- Hospitalization.
- Physical therapy.
- Occupational therapy.
- Speech therapy.
- Counseling sessions.
- Alcoholics Anonymous (AA) meetings.
- Narcotics Anonymous (NA) meetings.
- Parenting classes.
- Support classes.
- Food and nutrition classes.
- Court-ordered community service.
- Money management classes.

CDC Payments for High School Completion may be approved for P/SPs who are enrolled full or part-time, as defined by the educational institution, in order to attend classes leading to a high school diploma or its equivalent. Examples of this need reason would be high school completion, general educational development (GED), adult basic education (ABE) or English as a second language (ESL) classes. Verify the education activity and number of hours of the activity with:

- A completed copy of the DHS-4578, Child Care Education Verification. The activity end date on the DHS-4578 should correspond with the high school completion need end date on Bridges.
- A copy of the class schedule. Obtain this verification and file it in the case record:
 - At application.
 - At the beginning of a new term or semester.
 - When there is a change in the client's enrollment status or schools.

CDC eligibility based on the high school completion need reason ends when the client is no longer participating in the high school completion activity. BEM 703.

Child care payments may be approved under this Approved Activity need reason when a client needs child care to participate in an employment preparation and/or training activity or a post-secondary education program. The activity or education program must be approved by one of the following:

- DHS.
- MWA.
- Refugee services contractor.
- Tribal employment preparation program.
- Michigan Rehabilitation Services (MRS).

Hours of participation must be verified. Training and educational programs are presumed to be occupationally relevant. If questionable, email the policy mailbox at Policy-CDC-DHS Policy-CDC. Online educational programs can only be approved if all of the following three requirements are met:

- Attendance is mandatory.
- The number of required hours of online attendance time is verified.
- Attendance is required at specific, regularly scheduled times.

If the program is self-paced and can be completed at any time, care can not be approved for this need reason. Child care benefits for this need reason cannot be approved for graduate, medical or law school. Client need must be reviewed and re-verified whenever the term, semester or program ends, whichever is earliest. The

authorization end date must not exceed the term, semester or program end date. BEM 703.

Document the activity for those clients referred to the MWA agency for participation in the case record. For all other activities and for MWA and DHS assigned education activities, verify:

- The activity.
- The number of hours of the activity. For verification, use a copy of a document(s) containing at least the following elements:
 - The name and location of the assignment.
 - The beginning and end date of the approved activity plan.
 - The schedule for the assignment (a separate printed class schedule is acceptable) or the DHS-4578, Child Care Education Verification. The activity end date on the DHS-4578 should correspond with the approved activity need end date on Bridges.
 - A collateral contact with the MWA or other employment preparation agency verifying the above elements, and documenting the same in the case record, may be used as verification.

The specialist should obtain this verification and file it in the case record:

- At application.
- At the beginning of a new term or semester.
- When there is a change in the client's enrollment status or schools.

CDC eligibility ends based on an approved activity need reason when:

- The client is no longer participating with the MWA or other employment agency.
- The activity is no longer approved.
- The client no longer meets CDC eligibility requirements.
- The need no longer exists. BEM 703.

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. When opening a case with zero income, determine the date the employment began and end the authorization the last day of the pay period that is six months from the employment begin date. If money wages, self-employment profits or sales commissions are received within the authorization period, budget the income and extend the authorization period to coincide with the redetermination date. The specialist should remind these clients of their reporting

requirements. Clients participating in the following activities are considered to meet the need criteria based on employment including:

- Jury duty.
- Residency/internship for which wages are received.
- Required to be on call.
- Required strike duty.
- Sleep periods (up to eight hours) for the employed parent/substitute parent when:
 - This person is the only parent/substitute parent available to provide care during the time period for which CDC is being requested.
 - This person works during the child's normal sleep time.
 - This person must sleep when the child is awake.
- Job seeking activities for migrants.
- The paid employment portion of a co-op, or work study program.

Each parent/substitute parent (P/SP) of the child needing care must have a valid need reason for the time period that child care is requested.

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 nonexcluded income received by any member of the program group; see program group definition in BEM 205. Determine eligibility by assessing categorical eligibility first, then income eligible. More than one eligibility group may exist in some cases. BEM 703.

CDC 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 BEM 255.
- Have child(ren) needing care who meet the U.S. citizenship/alien status requirements as described in BEM 225.

Test the program group's countable income against the Child Development and Care Income Eligibility Scale found in RFT 270, page 1. Department Pay Percent (BEM 706)

varies depending on program group size and countable income for all program group members. Eligibility for CDC for income eligible ends the earliest of the following:

- The requirements are no longer met.
- The family has excess income.
- The need no longer exists. BEM 703.

In order to be eligible for CDC, both parents must demonstrate a valid need reason during the time the child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care.

In this case, Claimant reported to the department that she moved into the home of her daughter's father on March 18, 2011. According to policy, Claimant's daughter's father is a mandatory group member and was added to Claimant's case. Because he was receiving unemployment benefits, this income was also added to Claimant's case to determine continued eligibility for her FAP, FIP, MA and CDC programs. As a result, Claimant's CDC program closed for two reasons, excess income and the availability to parent the child. Claimant is only contesting Claimant's daughter's father's availability to parent.

Claimant testified that her daughter's father was on call three days a week and therefore was unavailable to watch her daughter. Per policy, each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care. The department explained that because the children's father did not have any earned income for the time period, the need could not be verified and he was considered available. As a result, Claimant was unable to demonstrate a valid need for child care and the department properly denied Claimant CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied Claimant's CDC benefits because both parents were not working or participating in an approved activity to be eligible for CDC and the group had excess income.

Accordingly, the department's actions are UPHELD.

It is SO ORDERED.

_____/s/_____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 6/8/11

Date Mailed: 6/8/11

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 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.

VLA/ds

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