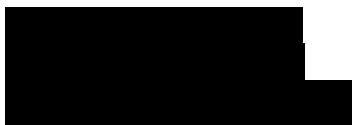


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201117065
Issue No: 6019
Case No: [REDACTED]
Hearing Date: July 19, 2011
Kent County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "the claimant") request for a hearing received on September 13, 2010. After due notice, a telephone hearing was held on July 19, 2011. The claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined the claimant's Child Development and Care (CDC) benefits?

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 active recipient for CDC benefits at all times pertinent to this hearing. (Hearing Summary). At the time, the claimant had only two children who required day care.
2. On April 29, 2010, the department received a letter from claimant indicating that she had a decrease in hours at work which resulted in a decrease in income. (Department Exhibit 2). The claimant attached to the letter paystubs from March and April of 2010. (Department Exhibits 3 & 4).
3. The department discovered that the claimant's income had actually increased due to increased hours and overtime at work as well as monthly child support income of [REDACTED]. (Department Exhibits 3-6, 11). The claimant's income was re-budgeted for a 90 day period and the department found that claimant had monthly earned income of [REDACTED] in wages including overtime hours. (Department Exhibits 7 & 10).
4. On May 12, 2011, the department mailed the claimant a Notice of Case Action closing her CDC, effective June 6, 2010, for her two minor children due to excess income (Department Exhibits 26-27).

5. On July 30, 2010, the claimant reapplied for CDC and her group size was changed to 4 (four). (Request for Hearing & Hearing Summary).
6. On September 30, 2010, the department mailed the claimant a Notice of Case Action that approved the claimant's CDC benefits, effective September 26, 2010, due to a reduction in her child support income. (Notice of Case Action, Department Exhibit 32).
7. The claimant submitted a hearing request on September 13, 2010, challenging the June 6, 2010 closure of her CDC case due to excess income. (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. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The Child Development and Care (CDC) 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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 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.

For CDC purposes, 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 (AMP), 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. BEM 505. Prospective income is income not yet received but expected. BEM 505. 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.

Here, the claimant earned wages from employment. Wages are the pay an employee receives from another individual or organization. BEM 501. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501. In the instant matter, the department verified the claimant's wages from the check stubs that she provided which reflected her hours, including overtime hours.

The claimant, in this case, also receives child support income. Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 525. Medical, dental, child care and educational expenses may also be included. BEM 525. Court-ordered child support may be either certified or direct. BEM 525. Certified support is retained by the state due to the child's FIP activity. BEM 525. Direct support is paid to the client. BEM 525. Child support is income to the child for whom the support is paid. BEM 525. For income eligible CDC determinations, the income of all program group members must be considered. BEM 525. Some types of income are excluded. BEM 525.

To compute income, the department uses 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. BEM 525. See BEM 505 for details on when a budget is needed, income and benefit month definitions, and the conversion of income to a monthly figure. BEM 525.

According to BEM 525, the department will complete a CDC budget at application, redetermination, and when:

- The group's income starts, stops, or changes from categorical to income eligible CDC.
- A program group member enters or leaves the group.
- An age exception is requested or ended.
- A child's paid foster care status changes.
- A parent/substitute parent's need reason starts, stops, or changes.

The department's Bridges system will determine eligibility for CDC and will address such questions as:

- Is a separate income determination required?
- What portion of the cost of care will DHS pay (department pay percentage)?
- Is a particular need reason covered?
- What eligibility and need reason codes should be entered?
- If a child is aged 13-18, is an age exception appropriate? BEM 525.

The client may have temporary eligibility under BEM 525 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. BEM 525.
- The group is currently active for CDC.
- The group exceeded the department pay percent income eligibility scale in RFT 270.

Per policy, the department will suspend benefits by ending the CDC authorizations on Bridges for the pay period following the timely notice period. BEM 525. Ineligibility exists for a minimum of two pay periods. BEM 525. The group remains active and does not have to reapply for CDC. BEM 525. Temporary ineligibility is limited to two pay periods. BEM 525. The department will close the case if the group is ineligible after the two pay period suspension period is over, allowing timely notice for closure. BEM 525.

If the program group does not qualify for one of the categorically eligible groups, the department will determine eligibility for the income eligible group. BEM 703. 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. BEM 703.

According to 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.

The department will test the program group's countable income against the Child Development and Care Income Eligibility Scale found in RFT 270, page 1. BEM 703. Department Pay Percent (BEM 706) varies depending on program group size and countable income for all program group members. BEM 703.

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.

Here, there is no dispute regarding the amount of income the claimant had during the months of March and April of 2010. When the claimant initially sent the department her work paystubs, she mistakenly believed that her income had decreased because she did not include her unearned income from child support. At the time, the claimant had [REDACTED] in monthly earned income from wages (which included overtime hours) and she also had unearned income in the form of child support payments [REDACTED]. The claimant's total gross monthly income was [REDACTED]. The claimant had a group size of 5. According to RFT 270, there is no DHS assistance if the gross monthly income is over [REDACTED] for a group size of 5. Because the claimant's gross monthly income [REDACTED] exceeds the CDC limit ([REDACTED]) the department properly closed her benefits at the time.

Consequently, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department properly determined the claimant's CDC benefits.

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 benefits.

The department's CDC determination is **AFFIRMED**.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 4, 2011

Date Mailed: August 5, 2011

2011-17065/CAP

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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