

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-25980
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: May 23, 2011
DHS County: Wayne (82-43)

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] request for a hearing. After due notice, a telephone hearing was held on May 23, 2011. Claimant appeared and testified. [REDACTED]

[REDACTED], 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. In 2011, Claimant applied to DHS for CDC benefits.
2. Claimant's family group consists of three people.
3. Claimant works forty hours per week and is paid biweekly.
4. Claimant's two February gross paychecks total \$1,878.
5. In calculating Claimant's eligibility, DHS took Claimant's average weekly pay for February and multiplied it by 4.3 weeks, arriving at a total earned income of \$2,018.

6. In calculating Claimant's eligibility, DHS did not use a deduction of \$141 from Claimant's income.
7. DHS, using DHS Reference Table (RFT) 270, p. 1, determined that the income eligibility limit for Claimant is \$1,847.
8. On March 3, 2011, DHS denied CDC benefits to Claimant.
9. On March 16, 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.

BEM, BAM 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.

RFT 270, "CDC Income Eligibility Scale and Provider Rates," is the first relevant manual item in this case. This item states that if a family group of three has gross income over \$1,990 per month, the group is not eligible for CDC benefits. RFT 270, p. 1.

Applying this policy to Claimant's income, I find and conclude there is no question that Claimant's \$2,018 gross income is more than the maximum gross income of \$1,990. Claimant asserts that her gross income for February is really \$1,878, but as Claimant is paid biweekly and not bimonthly, Claimant's assertion fails to take into consideration that two weeks' pay (biweekly) is not the same as bimonthly pay.

In order to arrive at a stable, nonfluctuating monthly income figure, DHS must follow the procedure in BEM 505, "Prospective Budgeting/Income Change Processing." This item requires DHS to determine a standard, nonfluctuating monthly income amount. DHS is required, when a customer is paid biweekly, to recognize that biweekly pay is not the

same as monthly pay. In order to do this, DHS must multiply the customer's weekly pay by 4.3 weeks. BEM 505, pp. 1, 6.

Further, I find and conclude that Claimant is mistaken in her understanding that gross income can include deductions. In fact, gross income means the total income before any deductions are taken. Accordingly, I find and conclude that DHS must not take deductions from gross income when determining if a client's gross income is below or above the income eligibility limit.

In conclusion, based on the findings of fact and conclusions of law above, I find and conclude that DHS calculated Claimant's eligibility in accordance with policy and procedure, and I AFFIRM DHS' denial of CDC benefits to Claimant. DHS need take no further action with regard to this case.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge AFFIRMS DHS' action denying CDC benefits to Claimant. DHS need take no further action in this case.



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

Date Signed: May 26, 2011

Date Mailed: May 26, 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.

JL/pf

cc:

