

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

IN THE MATTER OF:



Reg No: 2011-9160  
Issue No: 6019  
Case No: [REDACTED]  
Hearing Date:  
February 7, 2011  
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on February 7, 2011. Claimant appeared and testified. Tamara Northington, ES appeared on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly closed the Claimant's Child Development and Care case due to excess income.

Whether the spend down deductible for the Medical Assistance is covered by the Claimant's hearing request.

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 required to complete a redetermination in June 2010. The claimant filed her verifications in July 2010.

2. The Department closed the Claimant CDC case due to excess income after review of the Claimant's earnings for July 2010 based upon the check stubs provided by the Claimant. Exhibit 2
3. The check stubs submitted were for the following amounts: \$586.30 (7/2/10); \$578.50 (7/9/10); \$549.90 (7/17/10); \$590.20 (7/23/10); and \$533.00 (7/30/10).
4. The Department determined that the Claimant's earned income was \$2440 and the unearned income from SSI was \$616. Exhibit 1
5. The Department correctly determined the amount of SSI unearned income. The Claimant's son receives \$602 monthly and \$14 in monthly SSP supplements. Exhibit 4 The total earned income of \$2440 was also correct. The total gross income of \$3056 was also correct. Exhibit 1
6. The Claimant did not dispute the earned income amounts but did dispute the denial of her CDC benefits on the basis that she believed her income had not changed from prior periods during the three year period she had been receiving benefits such that she would no longer be eligible for CDC assistance.
7. The Department correctly concluded the claimant's countable income exceeded the income limit of \$2367 for CDC benefits. RFT 270
8. The Department denied the claimant CDC benefits on October 17, 2010, due to excess income.
9. The Claimant's hearing request dated October 25, 2010, contains a 3 page typewritten attachment. The conclusion to the hearing request states "Please look into my case and let me know if I am still eligible for

childcare for [REDACTED], if I am eligible for childcare please allowed [REDACTED] Day Care ([REDACTED]) to bills back from the 1st payment to current as of 10-28-10." Exhibit 3

10. The Claimant's hearing request exclusively requests review of the Child Day Care case closure and does not request a hearing regarding the correctness of the Claimant's medical spend down amount.
11. The hearing which is the subject of this decision, conducted on February 8, 2010, can only address the Child Day Care case closure issue.
12. DHS properly denied the Claimant's CDC case due to Claimant's total countable income of \$3056 exceeding the gross income limit of \$2367 for CDC benefits.
13. Claimant submitted a hearing request on October 25, 2010, protesting the closure of her CDC case.

#### 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).

The claimant verified the employment earned income used by the Department at the hearing and confirmed the check stubs she submitted as part of the redetermination.

In order to determine eligibility for CDC, the total gross income before deductions must be determined. BEM 525, page 1. To determine the gross monthly income BEM 505 provides:

A standard monthly amount must be determined for each income source used in the budget.

#### Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

Multiply weekly income by 4.3.

Multiply amounts received every two weeks by 2.15.

Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month.

The formula requires that an average weekly income be determined by adding all the earned income and dividing by the number of checks.  $(\$586.30 + \$578.50 + \$549.90 + \$590.20 + \$533.00 = \$2837.90 \div 5 = \$567.58$  average weekly gross earnings. The average weekly gross earnings are then multiplied by 4.3 to get the gross earned income.  $(\$567.30 \times 4.3 = \$2440$ . The Department's utilized \$2440 as the gross earned income in the CDC budget and that figure is correct. The SSI received by the Claimant for one of her children in the amount of \$616 per month is also correct and therefore the total gross income of \$ \$3056 is correct as calculated by the Department,  $(\$2440 + \$616 = \$3056)$  Exhibit 1

The income eligibility limit is determined by RFT 270 which establishes the income limit based on the percentage of cost the Department pays for CDC benefits received by an eligible recipient. In the Claimant's case the percent was 70%. Consulting the table in RFT 270, the limit is \$2367 and any gross income above that amount automatically disqualifies an applicant or recipient of CDC benefits from being

eligible for CDC benefits. As the Claimant's gross monthly income exceeds the income limits for CDC eligibility the Department correctly closed the Claimant's case.

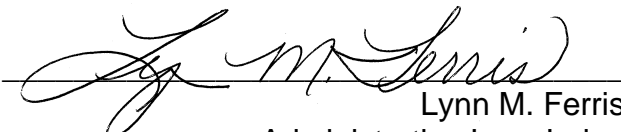
The Administrative Law Judge is not unsympathetic to the Claimant's loss of CDC benefits but based on the income received the closure of the CDC was required by Department policy. The claimant can reapply if for any reason her earnings change and are reduced.

As regards the issue of the correctness of the Claimant's FIP related Group 2 spend down amount, that issue cannot be addressed as the Claimant's hearing request did not request a hearing regarding that issue and thus there is no jurisdiction to resolve that issue.

Based on the foregoing facts and law, it is found that the Department properly closed claimant's CDC case and its decision in that regard must be and is AFFIRMED.

#### DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly closed the Claimant's CDC case due to excess income. Accordingly, the Department's actions are AFFIRMED.

  
Lynn M. Ferris  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: 02/15/11

Date Mailed: 02/16/11

**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 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.

LMF/dj

cc:

