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

# IN THE MATTER OF:



Reg. No.: 201221548 Issue Nos.: 6019, 6043

Case No.: Hearing Date:

County:

January 24, 2012 Kent County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

### **HEARING DECISION**

and MCL 400.37 following	Claimant's request for a	aw Judge pursuant to MCL 400. a hearing. After due notice, Lansing, Michigan. Participant	а
on behalf of the the Claimai Department of Human S		. Participants on behalf of the cluded an	
	ISSUE		

#### ISSUE

Due to excess income, did the Department properly  $\prod$  deny the Claimant's application

☑ close Claimant's case ☐ reduce Claimant's benefits for:		
Family Independence Program (FIP)?	Adult Medical Assistance (AMP)?	
☐ Food Assistance Program (FAP)?	State Disability Assistance (SDA)?	
Medical Assistance (MA)?	□ Child Development and Care (CDC)?	

# **FINDINGS OF FACT**

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

1. Claimant received benefits for Child Development and Care (CDC).

- 2. On December 8, 2011, the Department closed Claimant's case for CDC benefits with an effective date of November 20, 2011.
- 3. On December 8, 2011, the Department sent Claimant notice of the closure.
- 4. On December 20, 2011, Claimant filed a hearing request, protesting the closure of the case.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The 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 provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

Timely notice is given for a **negative action** unless policy specifies adequate notice or no notice. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. (BAM 220).

Policy in this case does not specify adequate notice or no notice when a Claimant's CDC benefits are closed due to excess income. Therefore, the Claimant in this matter is entitled to timely notice.

**Negative Actions:** If timely notice is required, the negative action date must be the first work day at least 11 days after the notice was sent, or the date the change is expected to occur if that is later. If adequate or no notice is required, the negative action date is immediate (the day action is taken on the change), but not before the change is expected to occur. (BAM 220).

The following negative changes entered on Bridges take effect as follows:

- Department pay percent decreases take effect in the first CDC pay period that starts on or after the negative action date.
- CDC case closures and member removals (for example removing an eligible child) take effect on the negative action date.

Case actions that end an authorization without removing a member or close the CDC eligibility determination group (EDG) are not pended. If the ended authorization is not

being replaced, or is being replaced with one for fewer hours, the change affects the first CDC pay period that begins on or after the negative action date. If replacing the authorization with one for more hours, the rules for positive actions are applied.

In the present case, there is no dispute that Claimant had income in excess of the policy limits for CDC benefits. The only issue pertains to the notice provided to Claimant. Based on the testimony and exhibits presented, I find the Department did not provide Claimant with adequate notice as required by Department policy. Based on policy, the case closure is to take effect 11 days after the notice is issued. Because the notice in this case was issued on December 8, 2011, the closure should have occurred on December 19, 2011.

December 19, 2011.
Based upon the above Findings of Fact and Conclusions of Law, I find that, due to excess income, the Department $\square$ properly $\boxtimes$ improperly
<ul> <li>☐ denied Claimant's application</li> <li>☐ reduced Claimant's benefits</li> <li>☐ closed Claimant's case</li> </ul>
for:
DECISION AND ORDER
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, find the Department did not act properly.
Accordingly, the Department's CDC decision is <b>REVERSED</b> .
THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:
<ol> <li>Initiate a redetermination as to Claimant's eligibility for CDC benefits beginning November 20, 2011, and extending through December 19, 2011, and issue retroactive benefits if otherwise eligible and qualified.</li> </ol>
Corey A. Arendt Corey A. Arendt Administrative Law Judge For Maura Corrigan, Director Department of Human Services Date Signed: _January 25, 2012
Date digitionoutliadly 20, 2012

Date Mailed: \_January 26, 2012

**NOTICE**: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing <u>MAY</u> be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

#### CAA/cr

