

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

**IN THE MATTER OF:**



Reg. No.: 2013-26264  
Issue No.: 6019  
Case No.:   
Hearing Date: July 8, 2013  
County: Macomb (50-20)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included .

**ISSUE**

Due to excess income, did the Department properly  deny the Claimant's application  close Claimant's case  reduce Claimant's benefits for:

- |   |   |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> Adult Medical Assistance (AMP)?              |
| <input type="checkbox"/> Food Assistance Program (FAP)?     | <input type="checkbox"/> State Disability Assistance (SDA)?           |
| <input type="checkbox"/> Medical Assistance (MA)?           | <input checked="" type="checkbox"/> 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. On January 2, 2013, Claimant  applied for benefits for  received benefits for

- |   |   |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP).              |
| <input type="checkbox"/> Food Assistance Program (FAP).     | <input type="checkbox"/> State Disability Assistance (SDA).           |
| <input type="checkbox"/> Medical Assistance (MA).           | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. On January 17, 2013, the Department  denied Claimant's application  closed Claimant's case  reduced Claimant's benefits due to excess income.
3. On January 17, 2013, the Department sent  Claimant  Claimant's Authorized Representative (AR) notice of the  denial.  closure.  reduction.
4. On January 25, 2013, Claimant or Claimant's AHR filed a hearing request, protesting the  denial of the application.  closure of the case.  reduction of benefits.

### **CONCLUSIONS OF LAW**

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

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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code R 400.5001 through R 400.5015.

Additionally, the Department denied Claimant's January 2, 2013, CDC application in a January 17, 2013, Notice of Case Action on the basis that the group's gross monthly income exceeded the CDC income limit.

Claimant has a three-member CDC group. A group with three members with gross monthly income in excess of \$1,990 is not eligible for CDC benefits. RFT 270 (October 2011), p. 1; BEM 703 (October 2012), p. 13. In this case, the Department calculated that Claimant's CDC group had gross monthly income of \$3,010 based on Claimant's employment income.

In calculating Claimant's monthly income, the Department testified that it relied on the following biweekly pay: (i) \$1,318.98 Claimant received on December 14, 2012, for 80 hours regular pay and 6 hours overtime; and (ii) \$1,481.26 Claimant received on December 28, 2013, for 76 hours regular pay, 13.3 hours overtime, and 4 hours vacation. The Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, and must discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts (such as overtime that is not expected to recur). When the income from the preceding thirty days is not a good indicator of future fluctuating or irregular income, the Department should use income for the preceding sixty or ninety days if that is a more

accurate reflection of the income that will be received in the future. BEM 505 (October 2010), pp. 4-5.

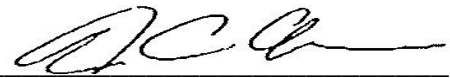
Claimant testified that she generally worked 40 hours weekly and sometimes received an opportunity to work overtime. She noted that the paystubs considered by the Department covered the holiday season and included an unusually high amount of overtime. The Department testified that it was aware that Claimant's income fluctuated and included overtime during the holiday season but did not request paystubs for any additional periods.

A review of Claimant's income for her regular pay, **excluding** any overtime and vacation pay, shows that Claimant received \$1,185.60 for 80 hours' employment on December 14, 2013, and \$1,126.32 for 76 hours' employment on December 28, 2013. Based on Claimant's regular pay, her average biweekly pay of \$1,155.96 multiplied by 2.15 in accordance with Department policy (to reflect that there are more than 2 paychecks per month over the course of a year) results in a standard monthly income amount of \$2,485.31. See BEM 505, p. 6. Thus, even if Claimant's overtime pay is excluded from the calculation of her gross monthly income, Claimant's income based on her standard 40-hour work week results in standard gross monthly income in excess of \$1,990, the CDC gross income limit for her group size. Accordingly, the Department acted in accordance with Department policy when it denied Claimant's January 2, 2013, CDC application.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it denied Claimant's January 2, 2013, CDC application.

Accordingly, the Department's CDC decision is AFFIRMED.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 11, 2013

**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 **MAY** 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 affect 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

ACE/pf

cc:

