IN THE MATTER OF:

Reg. No.:	2013-37120
Issue No.:	6019
Case No.:	
Hearing Date:	June 26, 2013
County:	Wayne (18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 June 26 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ⬛⬛⬛ Assistant Payment Worker, and ⬛⬛⬛ Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) application effective January 27, 2013, ongoing, due to excess income?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, including testimony of witnesses, finds as material fact:

1. On January 23, 2013, Claimant applied for CDC benefits.

2. On February 15, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was approved for the time period of January 13, 2013 through January 26, 2013. Exhibit 1.

3. On February 15, 2013, the Notice of Case Action also notified Claimant that her CDC application was denied effective January 27, 2013, ongoing due to her gross income exceeding the limits. Exhibit 1.

4. On March 20, 2013, the Claimant filed a hearing request, protesting the closure. Exhibit 1.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and 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 Rule 400.5001 through Rule 400.5015.

As a preliminary matter, Claimant is not disputing her approved CDC amount for the time period of January 13, 2013 through January 26, 2013. Claimant is only disputing the CDC denial effective January 27, 2013, ongoing.

The goal of the 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 (October 2012), p. 1. The CDC program 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, p. 1.

In this case, on January 23, 2013, Claimant applied for CDC benefits. On February 15, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was approved for the time period of January 13, 2013 through January 26, 2013. Exhibit 1. On February 15, 2013, the Notice of Case Action also notified Claimant that her CDC application was denied effective January 27, 2013, ongoing due to her gross income exceeding the limits. Exhibit 1.

For income eligible CDC determinations, the income of all program group members must be considered. BEM 525 (January 2011), p. 1. 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, p. 1. Also, court-ordered direct support means child support payments an individual receives directly from the absent parent or the MiSDU. BEM 503 (November 2012), p. 7. The Department counts the total amount as unearned income, except any portion that is court-ordered or legally obligated directly to a creditor or service provider. BEM 503, p. 7. The Department will not contribute to child care when the gross monthly income for a group size of 3 is over $1,990.00. RFT 270 (October 2011), p. 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505, p. 2.

At the hearing, the Department presented as evidence Claimant's CDC – Income Eligibility document. See Exhibit 1. Claimant testified that she would begin new employment on January 25, 2013. The Department based Claimant's gross earned income by working 40 hours a week, earning $10/hr., and being paid weekly. Claimant agreed to these figures above. The Department also testified that due to Claimant starting new employment, it used the above earnings figures to do prospective budgeting. To determine weekly pay, the Department took 40 hours a week times $10/hr., which would result in a weekly pay of $400. Then, the Department converted her weekly pay to a standard monthly amount and multiply the amounts received every week by 4.3, which results in a gross income of $1,720 ($400 times 4.3). BEM 505, p. 6. It should be noted, though, the budget indicates a gross income of $1,760 and not $1,720 as demonstrated above. See Exhibit 1.

Additionally, the budget indicated that Claimant received $411.88 in child support income. BEM 503, p. 7 and see Exhibit 1. Claimant did not disagree with this amount. Thus, the Department then calculated Claimant's gross countable income to be $2,171.88 ($1,760 earned income plus $411.88 child support income). It was undisputed that Claimant had a group size of three. RFT 270 states that the Department will not contribute to child care when the gross monthly income for a group size of 3 is over $1,990. RFT 270, p. 1. Thus, the Department testified that Claimant's $2,171.88 gross countable income exceeded the limit and it denied her CDC application.

Claimant testified that the Department calculated her gross countable income incorrectly. Claimant testified that she worked an average of 36 hours. Moreover, Claimant testified that she assumed she did put on her CDC application that she is earned $10/hr, working 40 hours a week, and was paid weekly. The Department did not provide Claimant's CDC application at the hearing.
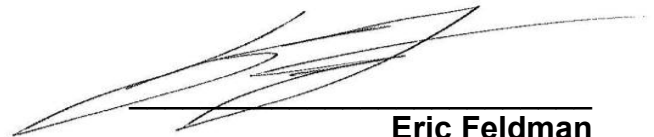
Nevertheless, Claimant's gross income still exceeded the income limits and the Department properly denied her CDC application. Even if the Department should have

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calculated Claimant's earned income to be $1,720 rather than $1,760, the error is harmless as the Claimant's monthly gross earnings exceed the income limits. The Department properly used prospect budgeting to estimate Claimant's expected income as she was starting new employment. Moreover, the Department properly used the $10/hr, working 40 hours a week, and was paid weekly that Claimant agreed too. Therefore, the Department acted in accordance with Department policy when it denied the Claimant's CDC application effective January 27, 2013, ongoing, due to excess income. Accordingly, the Department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated above and on the record, finds that the Department ☒ did act properly. ☐ did not act properly.

Accordingly, the Department's decision is ☒ AFFIRMED ☐ REVERSED for the reasons stated above and on the record.

Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 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,
- 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

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