

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-56046
Issue No.: 6019
Case No.: [REDACTED]
Hearing Date: August 22, 2013
County: Oakland (63-03)

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 August 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's May 29, 2013, Child Development and Care (CDC) application?

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 May 29, 2013, Claimant applied for CDC benefits.
2. In her application, Claimant reported monthly gross income of \$780.
3. In connection with a FEE investigation, the Department became aware that Claimant owned her business and that the business's gross monthly income was \$3,000.
4. On June 18, 2013, the Department sent Claimant a Notice of Case Action denying her CDC application for May 19, 2013, ongoing because her gross income exceeded the limit.

5. On June 27, 2013, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and 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, on May 29, 2013, Claimant applied for CDC benefits. In her application, Claimant reported \$780 in gross monthly income. Because Claimant reported self-employment and because she had previously applied for CDC and there were inconsistencies in her reported income in the applications, the Department conducted a FEE investigation. The Department testified that, during the course of the investigation, Claimant revealed that she owned a cell phone store that grossed \$3,000 monthly.

Based on the results of the investigation, the Department denied Claimant's CDC application in a June 18, 2013, Notice of Case Action because Claimant's gross monthly income was in excess of the applicable CDC income limit. In this case, Claimant has a CDC group size of three: herself and her two children. BEM 205 (December 2011), p. 1. The income limit for a CDC group size of three is \$1,990. RFT (October 2011), p. 1.

At the hearing, the Department provided a CDC income eligibility budget showing that it calculated that Claimant's total countable gross monthly income was \$2,788.66, consisting of \$2,250 in gross monthly self-employment income and \$538.66 in gross monthly child support.

Court-ordered child support payments an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU) is unearned income considered in the calculation of a client's gross income for CDC eligibility purposes. BEM 503 (May 2013), p. 7. The calculation of monthly child support income requires use of an average of the past three months' received payments unless changes are expected. BEM 503, pp. 5-7; BEM 505 (October 2011), pp. 3-4.

In this case, the Department considered Claimant's child support income for each of her children for the months March 2013, April 2013, and May 2013. Because this income was fairly consistent from month to month and there was no evidence that Claimant anticipated any changes, the Department properly considered Claimant's child support income for the three months at issue and the average of this income was \$538.66,

consistent with the Department's calculation on the CDC income eligibility budget. Therefore, the Department acted in accordance with Department policy in calculating Claimant's gross monthly child support income.

In calculating Claimant's gross monthly employment income, the Department testified that it first concluded that Claimant was self employed. An individual who runs her own business is self-employed. BEM 502 (October 2012), p. 1. In this case, Claimant acknowledged that she owned [REDACTED]. Therefore, even though Claimant pays herself a salary from the business, she is self-employed for Department purposes.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. BEM 502, p. 3. Allowable expenses are the higher of (i) 25% of the total proceeds, or (ii) actual expenses, if the client chooses to claim and verify the expenses, up to the amount of the total proceeds. BEM 502, p. 3.

In this case, the Department explained it calculated Claimant's net self-employment income of \$2,250 by deducting 25% of Claimant's total proceeds from her total self-employment proceeds of \$3,000, the amount she had told the FEE investigator were her business's gross earnings. At the hearing, Claimant claimed that her self-employment expenses exceeded the \$750 used by the Department. The Department is required to request verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory, whether the questionable information came from the client or a third party. BAM 130 (May 2012).

In this case, Claimant reported in her application gross monthly earned income of \$780. Based on the FEE investigation, the Department learned that Claimant's business had gross monthly earnings of \$3,000. However, the investigator's report indicates that these are the earnings "before the expenses are paid." Based on this inconsistent information, the Department should have given Claimant the opportunity to verify her self-employment expenses before calculating her CDC eligibility. By failing to do so, the Department did not act in accordance with Department policy.

DECISION AND ORDER

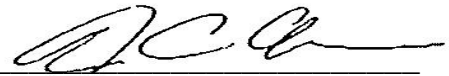
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's CDC application for excess income.

Accordingly, the Department's CDC decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's May 29, 2013, CDC application;

2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision; and
3. Provide Claimant with CDC benefits she is eligible to receive, if any, based on the date of application;
4. Allow Claimant's provider to bill for CDC benefits Claimant is eligible to receive; and
5. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: August 27, 2013

Date Mailed: August 27, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

