

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-68308
Issue No(s): 6019
Case No.: [REDACTED]
Hearing Date: October 31, 2013
County: Barry

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 31, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly determine the Claimant was no longer eligible for the Child Development (CDC) program because her income exceeded the income limit of \$ [REDACTED]

FINDINGS OF FACT

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

1. The Claimant has been approved for CDC since February 2013. (Exhibit 1)
2. Pursuant to the Claimant's August 27, 2013, State Emergency Relief (SER) application, updated income verifications were obtained that included paystubs and a report from The Work Number. (Exhibits 3 and 4)
3. The Claimant's CDC income eligibility was recalculated for a benefit period starting August 25, 2013, and it was determined that the Claimant did not pass the income test. (Exhibit 6)
4. On September 5, 2013, a Benefit Notice was issued to the Claimant stating that the assistance under the CDC program will end August 24, 2013 because the gross income exceeds limit. (Exhibit 7)

5. On September 10, 2013, the Claimant filed a hearing request, protesting the Department's action. (Exhibit 8)

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, for CDC, the program group's countable income is tested against the Child Development and Care Income Eligibility Scale found in RFT 270. BEM 7.03. For a group of three, there is no DHS assistance if gross monthly income is over \$ [REDACTED] RFT 270.

Clients must cooperate with the local office in determining initial and ongoing eligibility. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. There are reporting requirements for both earned and unearned income. BAM 105.

The Department reviewed the Claimant's CDC eligibility in light of the income verifications received for the August 27, 2013, SER application. Based on the available information, the Claimant had a total countable income of \$ [REDACTED] from earned income and child support. The Department determined the Claimant was no longer eligible for CDC because her income exceeded the limit of \$ [REDACTED] (Exhibit 6)

The Claimant testified that work is slower now, therefore her gross pay has decreased. The Claimant stated work will continue to be slow with the upcoming holidays. Additionally, one of the pay periods the Department utilized was unusual because it included two and a half hours of overtime from taking someone to the hospital. Regarding the child support, the Claimant stated that she does not always get the payments on time and for the full amount. However, the Claimant testified that the child support is currently caught up.

The Department properly utilized the best available information of the Claimant's current income from The Work Number report and the submitted pay stubs. There was no

evidence that the Claimant reported she was not receiving the expected full child support payments at that time. Further, the Claimant testified the child support payments are caught up now. Based on the information available, the Department properly determined the Claimant was no longer eligible for the CDC program based on excess income.

The Eligibility Specialist testified the Department's computer system failed to issue a Case Action Notice to the Claimant. See BAM 220 addressing notice of Case Actions. Accordingly, on September 5, 2013, the Benefit Notice was issued to the claimant stating the CDC benefits would stop August 24, 2013. (Exhibit 7) While the BAM 220 policy does not support retroactive case actions, there is also no authority under which CDC benefits can be issued during a period that the Claimant did not meet income eligibility for the program.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined the Claimant was no longer eligible for the CDC program because her income exceeded the income limit of \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack

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

Date Signed: November 7, 2013

Date Mailed: November 8, 2013

NOTICE OF APPEAL: 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.

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).

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

CL/las

cc:

