

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

IN THE MATTER OF:



Reg. No.: 2014223
Issue No(s): 6021
Case No.: [REDACTED]
Hearing Date: November 21, 2013
County: Shiawassee

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 November 21, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], General Services Program Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Child Development Care (CDC) benefits?

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 has three children, one of which was six years old (Child 1, d/o/b [REDACTED]) and attending school, when Claimant applied for CDC for her two youngest children, Child 2 (d/o/b [REDACTED]) and Child 3, (d/o/b [REDACTED]) herein on September 13, 2012.
2. Claimant was approved for CDC benefits for Child 2 and Child 3.
3. As the end of the school year approached in June 2013, Claimant applied for CDC benefits for her oldest child, Child 1 herein.

4. On July 17, 2013, the Department informed Claimant that her Child Care Provider Verification (DHS-4025) had been received, and that she needed to submit a Child Care Application (DHS-4583) before Child 1 could be added.
5. On August 2, 2013, Claimant submitted a CDC application (Exhibit 4) listing her three children as needing child care.
6. On September 6, 2013 the Department authorized CDC benefits the children for specified bi-weekly periods.
7. On September 6, 2013, the Department notified Claimant that child care was no longer approved beginning October 1, 2013 because the parent “does not have a need for child day care services due to employment, education or family preservation reasons.”

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.

Claimant originally applied for CDC when Child 1 was in school and she needed child care for her two youngest children. As noted in Exhibit 5, she identified her two youngest children in her CDC application dated September 13, 2012. As the end of the school year approached, Claimant enrolled Child 1 in day care to begin after school ended for the summer, and submitted a new application through the Department’s “drop box” during the first week of June, 2013. The Department has no record of receiving that application. In August 2013, her case was scheduled for review and she added Child 1 in an application she submitted on August 3, 2013 (Exhibits 4 and 6). Claimant provided a copy of her first pay statement reflecting her earnings from employment, and a statement from her employer showing her work schedule (Exhibits 7 and 8). Claimant testified that, beginning July 22, 2013, she was working an average of 35 hours per week at [REDACTED] per hour (paid bi-weekly), and her husband was working 40 hours per week at [REDACTED] per hour (paid weekly). Before beginning her job, Claimant was a full-time student at [REDACTED], doing an externship that had her on-site Monday-Thursday from 9 am to 5 pm, and at a seminar every Friday from 1 pm to 3 pm.

Claimant's bi-weekly gross earnings average [REDACTED]. Her spouse's weekly gross earnings are [REDACTED]. He had been with the same employer since July 28, 2012. The Department computed the couple's earned income at [REDACTED] in the BRIDGES budget calculation found in Exhibit 11.

On September 6, 2013, the Department informed Claimant that CDC benefits were approved for her children as follows:

	Begin	End	Bi-weekly Hours	Dept Pay %	Provider*
Child 1	7/14/13	7/27/13	80	100	[REDACTED]
Child 2	9/9/12	6/15/13	40	100	[REDACTED]
Child 2	6/16/13	8/24/13	80	100	[REDACTED]
Child 3	12/2/12	6/15/13	40	100	[REDACTED]
Child 3	6/16/13	8/24/13	80	100	[REDACTED]

*In the above chart, "[REDACTED]" is "[REDACTED]" and "[REDACTED]" is "[REDACTED]"

Except as noted in the preceding chart, no CDC benefits were approved. The couple's combined income of [REDACTED] was found to exceed the amount that would allow them to qualify for CDC benefits. Per RFT 270, a group of five with income exceeding \$2,746.00 monthly is not eligible for any assistance. If the group's income is \$2,551.00 or less, DHS will pay 95% of their approved child care costs, at rates set within the RFT.

Claimant's testimony that she had applied for CDC benefits during the first week of June 2013 was persuasive. The first week of June is the period from June 2, 2013 to June 8, 2013. The Department was aware in September 2012 that she had three children, including a 6-year-old female. The Department acknowledged that, for unknown reasons, papers left at the Department do not always make it to the (correct) file. The Claimant also testified that she called in repeatedly to check on the status of her application. That testimony was not rebutted by the Department. The Claimant should not be penalized for the loss of her June application.

It is unclear why the Department approved CDC benefits for Child 1 for the period of July 14-27, 2013 when it does not seem to have received an application that included Child 1 until August 2, 2013. The Department testified that was an error.

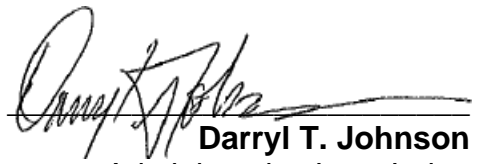
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied CDC benefits for the Claimant with respect to Child 1 for the period between the end of the school year after the first week of June, 2013, and her employment and consequent income-based ineligibility beginning July 22, 2013.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to its determination that Claimant was not eligible for CDC benefits due to excess income as of July 22, 2013, and **REVERSED IN PART** with respect to its denial of CDC benefits for Child 1 during between June 9, 2013 and July 22, 2013.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Claimant's CDC benefit eligibility for the period of June 9, 2013 to July 22, 2013.
2. To the extent required by policy, provide Claimant with retroactive and supplemental CDC benefits.


Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 26, 2013

Date Mailed: November 26, 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.

2014223/DTJ

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

DTJ/aca

cc:

