

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201339490
Issue No: 6019
Case No: [REDACTED]
Hearing Date: August 1, 2013
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 15, 2013. After due notice, a telephone hearing was held on August 1, 2013 at which Claimant appeared and provided testimony. The department was represented by [REDACTED], an assistance payments worker with the department's Genesee County office.

ISSUE

Whether the department properly denied Claimant's application for Child Development and Care (CDC) benefits due to excess income?

FINDINGS OF FACT

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

1. On January 22, 2013, Claimant applied for CDC benefits for her three children.
2. On February 22, 2013, Claimant submitted verification of her wages by submitting her pay checks for the months of December 2012, January 2013, and February 2013. (Department Exhibit 4)
3. On March 5, 2013, the department mailed Claimant a Notice of Case Action (DHS-1605), informing Claimant that her application for CDC benefits for the two children for whom Claimant would have been eligible for such benefits had been denied due to excess income.
4. On March 15, 2013, Claimant requested a hearing, protesting the department's denial of her application for CDC benefits. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The Child Development and Care (CDC) program was 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 MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

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. The department 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.

For CDC purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, the department's representative, Debora Baker, testified that the department's determination that Claimant's monthly income exceeded the income limit for the CDC program was based on the department's receipt of Claimant's pay stubs for the months of December 2012, January 2013, and February 2013, which reflected her receipt of monthly earned income in the amount of \$ [REDACTED]. Ms. Baker further testified that Claimant also receives an unspecified amount of court-ordered child support income on a monthly basis. Ms. Baker further testified that Reference Table 270 indicates that the income limit for the CDC program for 1-2 children is \$ [REDACTED].

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, because the department failed to provide this Administrative Law Judge with a copy of the Bridges CDC Net Income budget results demonstrating the calculations relied upon by the department in determining Claimant's monthly countable income, this Administrative Law Judge is unable to decide whether the department acted in accordance with policy in determining that Claimant's income exceeded the income limit for the CDC program.

This Administrative Law Judge has also reviewed BEM 205 and notes that it provides, in relevant part, that when CDC benefits are requested for a child, each of the following persons who **live together** must be in the program group:

- Each child for whom care is requested.
- Each child's legal and/or biological parent(s) or stepparent.
- Each child's unmarried, under age 18, sibling(s), stepsiblings or half sibling(s).
- The parent(s) or stepparent of any of the above sibling(s).
- Any other unmarried child(ren) under age 18 whose parent, stepparent or legal guardian is a member of the program group.

Accordingly, based on BEM 205, it appears that Claimant's CDC program group size was incorrectly determined to be comprised of two persons when in fact Claimant's CDC program group size should have included Claimant and her two eligible children, thus comprising a group size of three persons. As such, effective February 1, 2013, a CDC applicant with a group size of three has a maximum gross income limit of \$1,990.00. RFT 270.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that, based on the competent, material, and substantial evidence presented during the August 1, 2013 hearing, the department improperly denied Claimant's January 22, 2013 application for CDC benefits due to excess income because the department improperly determined Claimant's CDC group size and failed to provide this Administrative Law Judge with a copy of the Bridges CDC

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Net Income budget results demonstrating the calculations relied upon by the department in determining Claimant's monthly countable income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly determined Claimant's CDC group size and failed to provide this Administrative Law Judge with a copy of the Bridges CDC Net Income budget results demonstrating the calculations relied upon by the department in determining Claimant's monthly countable income. Accordingly, the department's actions are **REVERSED** and the department shall immediately reinstate Claimant's January 22, 2013 application CDC benefits, redetermine Claimant's eligibility for CDC benefits, and issue supplement checks for any months she did not receive the correct amount of benefits if she was otherwise entitled to them.

IT IS SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 2, 2013

Date Mailed: August 5, 2013

NOTICE: Michigan Administrative Hearings 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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

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

SDS/hj

cc:

