

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-68064
Issue No(s): 6001
Case No.: [REDACTED]
Hearing Date: November 26, 2013
County: Kent County DHS

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 November 26, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department properly close the Claimant's Child Development and Care (CDC) case due to excess income?

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 had been receiving CDC benefits with the child's status as the Claimant's foster child.
2. On August 9, 2013, the child's status was updated to reflect that the child was legally adopted by the Claimant on July 8, 2009.
3. On August 15, 2013, a Notice of Case Action was issued to the Claimant stating, in part, that the CDC case would close effective September 8, 2013, because the child was not eligible for CDC benefits.
4. On August 23, 2013, the Claimant filed a request for hearing contesting the Department's action.

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 t o 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, 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.

Categorical eligibility for CDC is met for all need reasons when the child needing care has an active DHS foster care case and the foster care payments are being paid to a Licensed foster parent. The case is opened in the foster parent's name. Eligibility for CDC for active DHS foster care cases ends the earliest of the following: the date the child(ren) is removed from the paid licensed foster parent's home or non-parent relative's home; the date the DHS foster care case is closed; the date the need no longer exists. BEM 703.

If the program group does not qualify for one of the categorically eligible groups, determine eligibility for the income-eligible group. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group. BEM 703. The CDC income limit for a group size of 2 is \$ [REDACTED] RFT 270.

The Assistance Payments Supervisor explained that when the child's status was corrected to being the Claimant's legally adopted child, the automatic eligibility for CDC ended. The Department then considered the Claimant's monthly countable income of \$ [REDACTED] and determined she was over the CDC income limit. Accordingly, the Claimant's CDC case closed.

The Claimant testified that she let a prior Department worker know about the adoption when it occurred in July 2009 and provided her paycheck stubs at that time. The Claimant was understandably concerned that the Department may seek recoupment of the CDC benefits for the whole time period the CDC case continued after the July 2009

adoption. However, there is no jurisdiction to review any recoupment issues at this time because the Department has not yet taken any recoupment action.

The Claimant also testified that the CDC payments actually stopped in July 2013 despite September 8, 2013, effective date listed on the Notice of Case Action. This is supported by the Hearing Summary prepared by the caseworker that states that the benefit closure was certified due to excess income with an effective date of July 28, 2013. (Exhibit A, page 1) It is also noted that the reason for the CDC closure listed on the Notice of Case Action was not accurate. (Exhibit A, page 4)

The evidence indicates that the Department erred in providing the required notice of the proposed CDC closure to the Claimant in regards to both the effective date of the action and the reason for the action listed on the written notice. See BAM 220. However, there was no evidence contesting the budgeting of the Claimant's income for the CDC eligibility determination. The Claimant's monthly countable income of \$ [REDACTED] exceeds the CDC income limit for a group size of 2 is \$ [REDACTED]. Ultimately, the evidence establishes that the Claimant was not eligible for CDC due to excess income. There is no remedy that can be ordered regarding the notice errors because the Claimant was not eligible for CDC benefits for that time period. Therefore, the closure of the Claimant's CDC case must be upheld.

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 closed the Claimant's CDC case based on excess income.

DECISION AND ORDER

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

/s/

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

Date Signed: December 11, 2013

Date Mailed: December 11, 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/hj

cc:

