

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

IN THE MATTER OF:



Reg. No.: 2014-9287
Issue No.: 3000; 6001
Case No.: [REDACTED]
Hearing Date: January 21, 2014
County: Wayne (31)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 21, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Child and Development Care (CDC) benefits 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. On 8/ [REDACTED] /13, Claimant applied for CDC benefits for her son.
2. Claimant was employed and received the following gross biweekly income: \$1060.11 on 9/12/13 and \$1058.60 on 9/ [REDACTED] /13 (see Exhibits 2-3).
3. On 9/ [REDACTED] /13, DHS denied Claimant's CDC benefit application due to excess income (see Exhibit 1).
4. On 10/ [REDACTED] /13, Claimant requested a hearing to dispute the CDC benefit denial and a Food Assistance Program (FAP) benefit determination.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP benefit determination. Neither the month of determination nor the details of the determination were presented. It was established that DHS changed the determination and that Claimant no longer wanted a hearing to dispute the FAP benefit determination. Claimant's hearing request concerning FAP eligibility is appropriately dismissed as Claimant no longer has a dispute concerning eligibility.

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute the denial of CDC benefits. It was not disputed that DHS denied Claimant's application because Claimant had excess income to qualify for CDC eligibility.

In calculating income eligibility, DHS is to use the gross (before deductions) countable, monthly income to determine the amount the department will pay (department pay percent) towards the group's child care costs. BEM 525 (1/2011), p. 1. DHS is to apply the policies of BEM 505 for details on when a budget is needed, income and benefit month definitions, and the conversion of income to a monthly figure. *Id.*

DHS converts bi-weekly non-child support income into a 30-day period by multiplying the income by 2.15. BEM 505 (7/2013), pp. 7-8. Multiplying Claimant's biweekly employment income by 2.15 results in a countable income of \$2277.

DHS is to test the program group's countable income against the Child Development and Care Income Eligibility Scale found In RFT 270. BEM 703 (7/2013), p. 16.

Department Pay Percent varies depending on program group size and countable income for all program group members. *Id.* The income limit for a two-person CDC group is \$1607 RFT 270 (10/2011), p. 1. The group's income exceeds the program income limit.

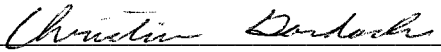
DHS presented a budget verifying that child support income was factored in the CDC budget income determination. Claimant alleged that the inclusion was improper because she no longer receives child support due to incapacitation of the payer. It need not be determined whether the inclusion of child support was proper because Claimant is income ineligible for CDC benefits without factoring any income for child support.

Claimant also noted that she has numerous living expenses and very little income leftover after paying rent and utilities. Claimant was a very sympathetic individual but no consideration can be made for any of the arguments presented by Claimant because they are not CDC budget factors. It is found that DHS properly denied Claimant's CDC application due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant does not have a dispute concerning FAP eligibility related to an application dated 8/█/13. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's CDC benefit application dated 8/█/13 for the reason hat Claimant had excess income. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 2/10/2014

Date Mailed: 2/10/2014

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

CG/hw

cc:

