

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

Reg. No.: 2014 25671  
Issue No(s): 6001  
Case No.: ██████████  
Hearing Date: April 2, 2014  
County: Wayne County DHS 57

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 April 2, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist, and ██████████ FIM.

**ISSUE**

Did the Department properly reduce/calculate the Claimant's CDC hours ?

**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 Department issued a Notice of Case Action on January 27, 2014 which reduced Claimant's CDC authorized hours to 40 hours bi weekly down from 80 hours bi weekly. Exhibit 2
2. The Department issued a Notice of Case Action on February 25, 2014 which approved the Claimant's for 60 CDC authorized hours bi weekly. Exhibit 3
3. The Claimant filed a verification of employment with her new employer United and employment hours were reported by the employer. Exhibit 1
4. The Department calculated the Claimant's authorized employment hours based upon 30 hours weekly, 60 hours bi weekly.

5. The Claimant requested a hearing on January 31, 2014 protesting the authorized hour reduction for January 2014.
6. The Claimant requested a hearing on February 24, 2014 protesting the authorized CDC hours calculation.

### **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, The Department recalculated the Claimant's CDC authorized hours based upon a verification of employment from Claimant's new employer (United). The Department averaged the hours over a 4 week period and did not include a week where the hours were low. The Department's calculations were reviewed at the hearing and the 30 hours weekly, 60 hours bi weekly are deemed correct and in accordance with Department policy. The Department is also required to consider travel time when authorizing CDC hours per BEM 710 pp1 provides:

The child care need calculation is based on a best estimate of the parent/substitute parent's work or approved activity schedule. Staff are expected to work in a cooperative relationship with the client to establish this best estimate. The word of the client is accepted unless inconsistent with known facts. Determine valid need hours for each parent/substitute parent (P/SP). Five hours or more per week travel time may be added to the weekly work or approved activity hours of the P/SP. Multiply the result by two to convert to biweekly valid need hours.

Note: If adding more than five hours per week of travel time, document the reason for the additional hours. Do not verify use of travel time. BEM 710 (5/1/10)

BEM 703, pp 4 provides: Determine valid need hours for each parent/substitute parent (P/SP).

Based upon the evidence presented the Department did not determine or consider travel time and thus must redetermine the need hours and if appropriate include travel hours.

The Department also took action on January 27, 2014 and reduced the need hours for January 2014 to 40 hours bi weekly from 80 hours bi weekly. The evidence presented did not support this reduction in hours. The Department changed the CDC provider and incorrectly reduced the CDC hours. Based upon the verification of employment provided in February 2014 the correct CDC hours as determined by the Department are 60 hours bi weekly. Exhibit 3. However, as stated previously the Department did not consider hours for travel time and thus this determination of authorized hours must also consider travel time, if any the Claimant is entitled to receive. Thus the reduction effective January 1, 2014 is incorrect and not supported by the evidence presented.

Lastly, the Claimant testified that she provided notice to the Department of her new employment hours in November 2013 and signed the department sign in book when doing so. The Claimant did not provide copies of what she filed with the Department. The case file contents were reviewed at the hearing and no verifications of new employment were found other than Exhibit 1 which was verification received by the Department in February 2014 which it based the current authorized CDC hours. The Department also reviewed during the hearing the Department front desk sign in book for November 2013 and did not find the Claimant's signature in the book. Thus, the Department did not have any prior verifications which would otherwise affect Claimant's case other than the evidence presented at the hearing.

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 calculated that Claimant's hours to be 60 hours bi weekly ongoing as of February 9, 2014.
- did not act in accordance with Department policy when it reduced the Claimant CDC hours to 40 hours bi weekly beginning January 2014.
- did not act in accordance with Department policy when it did not consider any travel time when calculating the CDC authorized hours.

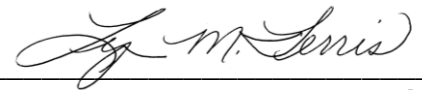
### **DECISION AND ORDER**

Accordingly, the Department's decision is

- AFFIRMED IN PART with respect to the current 60 CDC authorized hours biweekly and REVERSED IN PART with respect to the calculation and reduction of CDC authorized hours to 40 effective January 2014 and failure to consider travel time when determining authorized hours.

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. The Department shall correct its Notice of Case action dated 1/27/14 reducing the Claimant's authorized CDC hours to 40, and shall correct CDC hours to be 60 bi weekly in accordance with this Decision.
2. The Department shall also determine travel time eligibility for the Claimant and shall include travel time deemed appropriate in the CDC authorized hours in accordance with Department policy beginning January 1, 2014.



**Lynn M. Ferris**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: April 3, 2014

Date Mailed: April 3, 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

2014 25671/LMF

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

LMF/tm

cc:

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]