

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

IN THE MATTER OF:



Reg. No.: 201429721
Issue No(s): 5000, 6002
Case No.: [REDACTED]
Hearing Date: May 6, 2014
County: Oakland County DHS #2

ADMINISTRATIVE LAW JUDGE: Gary F Heisler

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 May 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included himself. Participants on behalf of the Department of Human Services (Department) included ES [REDACTED] and AP Supervisor [REDACTED]. During the hearing it was determined that there was no hearable State Emergency Relief Program issue. The State Emergency Relief Program portion of this case is dismissed.

ISSUE

Did the Department properly close Claimant's Child Development and Care Program on January 29, 2014?

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 was an ongoing recipient of Child Development and Care Program benefits.
2. On January 21, 2014, Claimant was sent a Verification of Employment (DHS-38) form.
3. On January 22, 2014, Claimant submitted two pay check stubs dated December 27, 2013 and January 10, 2014.
4. On January 24, 2014, Claimant faxed in a Verification of Employment (DHS-38).

5. On January 29, 2014, Claimant was sent a Notice of Case Action (DHS-1605) which stated his Child Development and Care Program would closed beginning February 23, 2014 for failure to provide proof of information asked for.
6. On February 14, 2014, Claimant submitted a hearing request.

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.

In this case the Department asserts that the pay check stubs and Verification of Employment (DHS-38) were insufficient to constitute verification of income. The Verification of Employment (DHS-38) does not contain Claimant's beginning employment date or date of first paycheck. In section 3 of the form (Income Information) there are no dates provided as a request for pay records. It does show that Claimant: is a permanently employed insurance representative; works 9-6 Monday through Thursday, and 9-5 on Friday; is expected to work 38 hours per week at \$10 per hour; is paid every two weeks; and was last paid on January 10, 2014. It is signed by [REDACTED]. The paycheck stubs Claimant submitted: are from [REDACTED] with a federal ID number of [REDACTED]; show he was paid on December 27, 2013 for 75 hours at \$ [REDACTED] per hour during the pay period ending December 21, 2013; and show that he was paid on January 10, 2014 for 78 hours at \$ [REDACTED] per hour during the pay period ending January 4, 2014. The Department asserts the pay check stubs are not acceptable because the one dated December 27, 2013 shows two different "year to date" values.

Bridges Eligibility Manual (BEM) 501 Income from Employment page 11 lists check stubs or earnings statements and Verification of Employment (DHS-38) as specific verification sources for wages, salaries, and commissions. For purposes of determining ongoing eligibility for Child Development and Care Program, the Department needs verification of income and the number of hours needed due to employment. The discrepancy of "year to date" values on the first pay check stub is curious. However, the Department does not need to know Claimant's "year to date" gross wages in order to calculate his ongoing income. Neither does the Department need to know the date Claimant started the employment to calculate his ongoing need hours.

Bridges Eligibility Manual (BEM) 130 Verification and Collateral Contacts (2014) page 1 says that verification is usually required at application/redetermination and for a

reported change affecting eligibility or benefit level. It also says to obtain verification when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. Any concerns about Claimant's eligibility prior to the verification are properly referred to the Office of Inspector General for investigation. Nothing in Department policy directs termination of benefits when verification of necessary information has been received for determination of ongoing benefits.

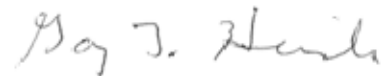
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's Child Development and Care Program on January 29, 2014.

DECISION AND ORDER

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

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. Reinstate Claimant's Child Development and Care Program and re-determine his eligibility from February 23, 2014 ongoing.
2. Issue Claimant notice of the re-determined Child Development and Care Program eligibility.



Gary F Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 30, 2014

Date Mailed: May 30, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

GFH/hj

cc:

