

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

IN THE MATTER OF:



Reg. No.: 2014-28727
Issue No(s): 6001
Case No.:
Hearing Date: April 03, 2014
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Hearings Facilitator.

ISSUE

Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits on the basis that her income exceeded the limit?

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 February 9, 2014, Claimant submitted an application for CDC benefits.
2. On February 11, 2014, the Department sent Claimant a Notice of Case Action informing her that for the period February 23, 2014, ongoing, her CDC application had been denied on the basis that her gross income exceeds the limit. (Exhibit 2)
3. On February 14, 2014, Claimant submitted a hearing request disputing the Department's actions.

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, Claimant submitted an application for CDC benefits on February 9, 2014, that was denied by the Department on the basis that Claimant's gross income exceeded the limit for receipt of CDC benefits. (Exhibit 2). In order to be eligible for CDC benefits, the group must have gross income that falls within the income scale found in RFT 270. RFT 270 (December 2013), p.; BEM 703 (July 2013); BEM 205 (July 2013). The CDC income limit for a two member CDC group (Claimant and her one child) is \$1607. RFT 270, p.1.

At the hearing, the Department presented a CDC Income Eligibility budget in support of its determination that Claimant had excess income and was thus, ineligible for CDC benefits. (Exhibit 1). The Department concluded that Claimant had earned income of \$1802. The Department testified that in calculating Claimant's earned income, it relied on the pay stubs provided by Claimant and applied the prospective budgeting policy. (Exhibit 3). The Department testified that it considered Claimant's biweekly earnings of \$725.29 paid on January 17, 2014 and \$951.20 paid on January 31, 2014.

Although Claimant confirmed that the pay stubs considered by the Department were accurate, Claimant stated that her schedule changes often and that she can work anywhere from 60 to 80 hours per pay period. A review of the pay stubs submitted reveals that for one pay period Claimant worked 61 hours and the other pay period Claimant worked 80 hours, not including overtime hours. (Exhibit 3).

In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (July 2013), pp. 4-5. The Department will consider income from the past 60 or 90 days for fluctuating or irregular income if the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6.


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 because of the fluctuations in Claimant's hours of employment, the Department should have considered Claimant's income from the past 60 or 90 days, as it is a more accurate indicator of her monthly income. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application on the basis that her income exceeded the limit.

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. Register and process Claimant's CDC application;
2. Issue supplements to Claimant and her Child Care Provider for any CDC benefits that she was entitled to receive but did not from the date of application, ongoing, if otherwise eligible and qualified; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 18, 2014

Date Mailed: April 18, 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

ZB/tlf

cc:

