

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-011709
Issue No.: 6008
Case No.: [REDACTED]
Hearing Date: December 4, 2014
County: Washtenaw (District 20)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 December 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] and Assistance Payments Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) benefits?

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 on-going CDC recipient.
2. On August 26, 2014, Claimant submitted paystubs and her income was updated in the Bridges program which determines eligibility.
3. Claimant was found to have earned excess income and her benefits were closed beginning July 13, 2014.
4. The Department received Claimant's hearing request on September 5, 2014.

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.

Per BEM 505 (7/1/13), p 1,

“A group’s financial eligibility and monthly benefit amount are determined using:

- Actual income (income that was already received).
- Prospected income amounts (not received but expected).

Only countable income is included in the determination; see BEM 500.

Each source of income is converted to a standard monthly amount, unless a full month’s income will not be received; see standard monthly amount in this item.

“For CDC, benefit month is the month in which the pay period ends.”

The Department determined Claimant’s CDC based upon the reported income. Claimant reported earning \$ [REDACTED] in four weekly paychecks received in May and June 2014. (Exhibit 1 Pages 8-9.) That equates to \$ [REDACTED] per month when the total is divided by four and then multiplied by 4.3. Per RFT 270 (8/1/14), if a group of three has income of \$ [REDACTED] or more per month, the group is not eligible for any CDC. For income between \$ [REDACTED] or less, [REDACTED] of her child care expense can be paid. For income between \$ [REDACTED] and \$ [REDACTED] [REDACTED] could be paid, and for income between \$ [REDACTED] and \$ [REDACTED] [REDACTED] could be paid. For gross income of \$ [REDACTED] to \$ [REDACTED] [REDACTED] could be paid. The Department calculated her monthly earned income to be \$ [REDACTED] (Exhibit 1 Page 7.) That is slightly higher than what is indicated by the evidence. Nonetheless, even the amount calculated by the undersigned exceeds the limit that would allow her to receive CDC.

Claimant took issue with a delay from the Department in informing her that her CDC was no longer approved, causing her to run up a balance due to her daycare provider. This Administrative Law Judge is delegated authority pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940). While the Claimant would have been better served by a more prompt notice that her benefits were terminated, the only question the undersigned can consider is whether the Department made the correct decision.

The existing policy creates an incentive for CDC recipients to limit their income. As stated above, Claimant could have earned as much as \$ [REDACTED] and had [REDACTED] of her CDC paid for. If she increased her monthly earnings by \$ [REDACTED] she could still have [REDACTED] of it paid. But, if she increased her monthly earnings by \$ [REDACTED] (approximately \$ [REDACTED] per week) she receives no CDC at all. Claimant has, in fact, limited her income to prevent this from happening. In the end, any changes to policy will have to come from people other than an Administrative Law Judge.

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 Claimant's CDC.

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/9/2014**

Date Mailed: **12/9/2014**

DJ/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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 48909-8139

cc:

