

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-11556
Issue No(s): 6008
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Darryl T. 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 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist.

ISSUE

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

The Hearing Request also noted an issue with Claimant's Food Assistance Program (FAP) benefits. However, the parties stipulated that there is no issue regarding FAP that needs to be addressed by the Administrative Law Judge.

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 recipient of CDC benefits.
2. Claimant is a recipient of child support.
3. Claimant received child support in August, September, and October 2013 that was greater than the \$ [REDACTED] she normally received each month.
4. The average Claimant received in child support for August, September, and October increased Claimant's income to an amount in excess of the limit for eligibility for CDC.

5. As explained in an October 30, 2013, Notice of Case Action, Claimant's CDC benefits were terminated as of November 17, 2013.
6. Claimant filed a hearing request on November 6, 2013, contesting the elimination of her CDC.

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.

Child support is considered "unearned income." See BEM 503. Per BEM 505, child support is generally averaged over a three month period if the amount of income fluctuates. "Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue." The issue here centers on whether the amounts are "unusual and not expected to continue." The Claimant testified that her regular monthly child support is \$ [REDACTED] and that her child's father made some extra payments in August, September, and October. As shown on Exhibit 1, page 29, Claimant received \$ [REDACTED] in August, \$ [REDACTED] in September, and \$ [REDACTED] in October. Claimant testified further that, as of November, her child support had returned to \$ [REDACTED] per month.

BEM 505 goes on to state, "If the past three months' child support is not a good indicator of future payments, calculate an expected monthly amount for the benefit month based on available information and discussion with the client." The testimony is convincing that the past three months' child support in this case is not a good indicator of future payments. The testimony is persuasive that the Claimant's expected monthly amount should have been based on the \$ [REDACTED] that is reflected in the support order detailed on page 29 of the Exhibit (\$ [REDACTED] for child support and \$ [REDACTED] for child care).

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 CDC.

As stated above, the Claimant had originally contested a reduction in her FAP. Since the parties stipulated during the hearing that there is no issue with her FAP, that reduction will stand.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Claimant's FAP and **REVERSED IN PART** with respect to Claimant's CDC.

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. Redetermine Claimant's CDC benefit eligibility, effective November 17, 2013;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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

Date Signed: December 10, 2013

Date Mailed: December 11, 2013

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

DTJ/las

cc:

