

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

IN THE MATTER OF:



Reg. No.: 14-015883
Issue No.: 6008
Case No.: [REDACTED]
Hearing Date: February 10, 2015
County: Kent-District 1 (Franklin)

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 February 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator/Assistance Payments Supervisor [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 for her two children.
2. On September 15, 2014, the Department mailed to Claimant a Semi-Annual Contact, which she completed and returned, reporting no changes in her circumstances.
3. On September 18, 2014, a system check was run by the Department, and it was discovered that Claimant was receiving child support of \$ [REDACTED] per month that had not been included in her CDC budget.
4. Claimant earns income from employment, and the Department calculated her CDC budget based upon \$ [REDACTED] per month in earned income.

5. On September 18, 2014, the Department mailed to Claimant a Notice of Case Action (NCA) informing her that her CDC was closed effective October 5, 2014, due to excess income. (Exhibit A Pages 21-22.)
6. The Department received Claimant's hearing request on November 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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the forms were mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline. Therefore, the Department properly closed Claimant's FAP.

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 redetermined Claimant’s CDC based upon the reported earned and unearned income. The Department received a summary of Claimant’s wages. In her check dated April 29, 2014, she was paid \$440.00. On May 6, she was paid \$440.00. On May 13, she was paid \$341.00. On May 20, she was paid \$55.00. Her total wages for those four weeks was \$1,276, or an average of \$319.00. That equates to \$1,371.70 per month when the average weekly gross is multiplied by the factor of 4.3. That is the amount the Department used in her budget. The Department also included \$654.14 per month in child support, putting her monthly gross income at \$2,025.84.

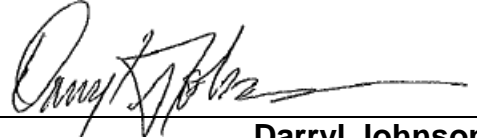
Per RFT 270, (8/1/14) if a group of three has income of \$ [REDACTED] or more per month, the group is not eligible for any CDC. Had her income been \$ [REDACTED] or less, she would have had 95% of her child care expense paid. If her income were between \$ [REDACTED] and \$ [REDACTED] she could have had 90% of it paid, and if her income were between \$ [REDACTED] and \$ [REDACTED] she could have had 80% of it paid. Even if she had gross income of \$ [REDACTED] to \$ [REDACTED] she could have had 70% of it paid.

Claimant broached the fact that, in the past, her child support was not counted in her budget, and consequently she was eligible for CDC. Errors by the Department in the past do not justify continued errors by the Department. It will be noted that, even when the Department makes errors, if those errors result in excess benefits being provided, the Department can undertake efforts to recoup those benefits. This decision does not in any way make a finding that Claimant received excess benefits in the past, either by client error or agency error.

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 denied CDC due to excess income. .

DECISION AND ORDER

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



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

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:

