

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-006684
Issue No.: 6001
Case No.: ██████████
Hearing Date: June 01, 2015
County: WAYNE-DISTRICT 18
(TAYLOR)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████

ISSUE

Did the Department properly close the Claimant's CDC case due to income which exceeded the income 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. The Claimant was an ongoing recipient of CDC for her 3 children, one of whom receives SSI.
2. The Department issued a Notice of Case Action on April 18, 2015 which approved CDC benefits only for the Claimant's daughter. Exhibit 3. The Claimant's sons were no longer eligible for CDC based upon excess group income.
3. The Department included Child Support payment for the Claimant as part of the unearned income but included one check that was almost double the other checks. The payment amounts were \$437 for January and February 2015, and \$930.08 for March.

4. The Claimant confirmed that her earned monthly income of \$1504 used by the Department to calculate income was correct.
5. The Claimant's daughter receives SSI in the amount of \$268.00. The Department used \$367.94 and the SOLQ showed SSI received as \$266.64. The Department conceded that it used the wrong income for SSI.
6. The Claimant requested a hearing on April 20, 2015 protesting the closure of the Claimant's CDC.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 CDC budget was reviewed and the hearing and was found to be incorrect as the SSI received by the Claimant's daughter was entered as \$367.94. The SOLQ used \$266.94 and the Claimant credibly testified that her daughter receives \$288. Thus the Department did not use the correct amount based upon the SOLQ. Thus the unearned income was incorrect as is the CDC Income Eligibility is incorrect.

The Child Support income was also incorrect as the Department included an amount which was not ordinary and did not discuss this with the Claimant. BEM 505 provides as regards determining child support the following:

Past Three Months

- 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.

Note: The three month period used can begin up to three months before the interview date or the date the information was requested.

If payments for the past three months vary, discuss the payment pattern from the past with the client. Clarify whether the pattern is expected to continue, or if there are known changes. If the irregular pattern is expected to continue, then use the average of these three months. If there are known changes that will affect the amount of the payments for the future, then do **not** use the past three months to project. **Document the discussion with the client and how you decided on the amount to budget.** BEM 505, (July 2015) p. 3-4

As the Department included the month of April 2015 that was unusual, almost double the February and March 2015 child support received, the Department should have determined whether this was a correct pattern and discuss this with the Claimant. Thus it is determined that the Department did not properly calculate child support or discuss the child support with the Claimant as the payments varied and one payment for April 2015 was unusual.

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 calculated the CDC unearned income for SSI or the child support, and thus its determination finding the Claimant had excess income is incorrect.

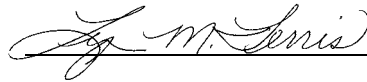
DECISION AND ORDER

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. The Department shall reinstate the Claimant's CDC as regards her two sons and shall recalculate the Claimant's CDC Income Eligibility budget and determine and resolve the correct SSI received by the Claimant's daughter and shall recalculate child support received in accordance with Department policy and this Decision.

2. The Department shall provide the Claimant with written notice of its income eligibility determination.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/2/2015**

Date Mailed: **7/2/2015**

LMF / cl

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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