

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006528
Issue No.: 6001
Case No.: [REDACTED]
Hearing Date: July 13, 2015
County: MACOMB-DISTRICT 20

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 July 13, 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 [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Claimant Child Development and Care (CDC) application?

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 applied for CDC on [REDACTED].
2. The Department issued a verification checklist on [REDACTED] with a due date [REDACTED]. The Claimant returned the items requested but did not provide pay stubs. Exhibit 2
3. The Department used the Work Number to determine the Claimant's income. The pay used by the department included three pay stubs: [REDACTED], (\$32.60), [REDACTED] (\$380), and [REDACTED] (\$736.88). Exhibits 2 and 3

4. The Claimant's CDC group is composed of 4 members. The Claimant's son receives RSDI in the amount of \$1440. The Claimant provided hours and rate of pay at \$9.75 per hour. The Claimant had just started a new job.
5. The Claimant requested a hearing on April [REDACTED] protesting the Department's action.

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 Claimant had just started a job and the Department improperly used the Claimant's pay for a two week training period which the Claimant credibly testified was high because it was a training period which did not represent a normal number of work hours, in the amount \$736.88. This pay was also not in the benefit month being determined, which was March 2015. This pay was also not 30 days prior to the application. Generally in determining earned income the Department is required to use the prior 30 days of income to determine eligibility. BEM 505

A group's benefits for a month are based, in part, on a prospective income determination. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this best estimate amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process.

For CDC, benefit month is the month in which the pay period ends. BEM 505, (July 1, 2015) p. 1

Starting Income

For starting income, use the best available information to prospect income for the benefit month. This may be based on expected work hours times the rate of pay. Or if payments from the new source have been received, use them in the budget for future months if they accurately reflect future income.

If the payment is not hourly, use information from the source (e.g., from the employer on the DHS-38), along with information from the client, and/or any checks the client may already have received to determine the prospective amount.

A standard monthly amount must be determined for each income source used in the budget.

Stable and Fluctuating Income

Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505 (July 1, 2015) p. 7-8.

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This conversion takes into account fluctuations due to the number of scheduled pays in a month.

Exception: Do **not** convert income for the month income starts or stops if a full month's income is not expected in that month. Use actual income received or income expected to be received in these months. BEM 505 p.8.

In this case the evidence demonstrated that the Department improperly determined monthly income when attempting to determine earned income. Department policy requires that the Department use the last 30 days income if available. In this case, as the Claimant had just started her job, the Department should have used the income for March 2015 and then determined correct income by talking to the Claimant. Even in April 2015 the income must be properly prospected, as the Claimant received an inordinately high pay due to training \$736.88, as compared to \$270 for 30 hours work paid on [REDACTED] (which the Claimant testified was normal). Exhibit 2. Clearly because the Claimant had just started a new job the Department should not have improperly determined income as shown in the example found in BEM 505 as the last 30 days of income for March did not accurately represent the Claimant's standard monthly income nor will the first pay in April 2015. Policy provides under these circumstances:

Example 2: You are processing an application and are determining eligibility for August benefits. The client started a new job at the end of July and will be paid every two weeks. Her first check will be received on 8/7, but will be for only one week's wages. A full two-week pay check is expected on 8/21. Complete the August budget using the expected pays and do **not** convert the income to a standard monthly amount. (Bridges will convert or not convert automatically if questions are answered correctly). Process a change for September to project a full month's pay and to convert to a standard monthly amount. BEM 505, p. 8.

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 properly determine the Claimant's earned income from her new employment in accordance with Department policy and thus must re process the application and redetermine the Claimant's earned income appropriately and in accordance with Department policy.

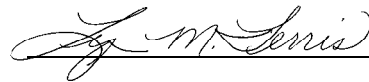
DECISION AND ORDER

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 register the Claimant's [REDACTED] CDC application and reprocess the application and determine the Claimant's income without including the pay for [REDACTED] in the amount of \$736.88, in accordance with Department policy and discuss with the Claimant and utilize information received by the employer to properly determine Claimant's standard monthly earned income.
2. The Department shall issue a supplement for CDC if the Claimant is otherwise eligible for CDC, in accordance with Department policy.
3. The Department shall issue a Notice of Case action advising the Claimant of its determination.



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

Date Signed: **8/3/2015**

Date Mailed: **8/3/2015**

LMF / hw

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:

