

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-008152
Issue No.: 6001
Case No.: ██████████
Hearing Date: June 29, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly process Claimant's Child Development and Care (CDC) benefits and determine that she was ineligible for CDC effective May 31, 2015, on the basis that her gross income exceeded the 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. Claimant was an ongoing recipient of CDC benefits.
2. In connection with a redetermination, Claimant's eligibility for CDC benefits was reviewed.
3. On May 8, 2015, the Department sent Claimant a Notice of Case Action informing her that effective May 31, 2015, her CDC case would be closed on the basis that her gross income exceeded the limit for CDC purposes. (Exhibit A)

4. Claimant continued to take her children to the CDC provider and incurred costs for the period between April 19, 2015, and May 30, 2015.
5. On May 15, 2015, Claimant requested a hearing disputing the Department's actions concerning her CDC benefits.

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.

Claimant requested a hearing disputing the Department's actions with respect to her CDC benefits. Claimant raised two concerns at the hearing: (i) the closure of her CDC case effective May 31, 2015, due to excess income; and (ii) that her CDC provider was not paid from April 19, 2015, to May 30, 2015, despite being notified that her case will not be closing until May 31, 2015.

Case Closure Effective May 31, 2015

In order to be eligible for CDC benefits, the group must have gross income that falls within the income scale found in RFT 270. RFT 270 (August 2014), p.; BEM 703 (November 2014); BEM 205 (July 2013); BEM 525 (July 2013). The CDC income limit for Claimant's confirmed four person CDC group is \$2367. RFT 270, p.1.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (July 2014), p. 5. The Department will use income from the past 60 or 90 days for fluctuating or irregular income if: the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6. A standard monthly amount must be determined for each income source used in the

budget. BEM 505, p. 7. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 7-8.

Child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (July 2014), pp. 6-9. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505, pp. 3-4.

According to the CDC-Income Eligibility budget provided, the Department concluded that Claimant had total countable income of \$2395.02, which consisted of \$1456 in earned income and \$939.02 in unearned income from child support. (Exhibit B). With respect to earned income, the Department testified that it considered \$571.74 paid on March 27, 2015, and \$783.22 paid on April 10, 2015. (Exhibit C). A further review of the paystubs provided shows that Claimant earned a significantly higher amount in commission on her April 10, 2015, check than she did on her March 27, 2015, check. Thus, using pay information for a 60 to 90 day period would be a better indicator of Claimant's earnings.

In addition, with respect to unearned income from child support, the Department testified that it considered the three month average for child support received on behalf of Claimant's three children. The Department stated that it considered child support received in February 2015, March 2015, and April 2015 and provided a child support search in support of its testimony. (Exhibit D). A further review of the child support search and the exact figures relied on by the Department establishes that the Department did not properly calculate Claimant's unearned income from child support, as the total amount does not equal \$939.02 as determined by the Department.

Therefore, because of the errors in the calculation of Claimant's earned and unearned income discussed above, the Department did not act in accordance with Department policy when it closed Claimant's CDC case effective May 31, 2015, on the basis that her income exceeded the limit.

CDC Benefits for April 19, 2015 to May 30, 2015

At the hearing, Claimant testified that she was informed by her children's day care center that payment had not been provided since April 19, 2015, and questioned why she was not eligible for CDC benefits for the period between April 19, 2015, and May 30, 2015, if the Notice of Case Action informed her of a case closure effective May 31, 2015. Claimant and the Department confirmed that no other notices were issued to Claimant advising of her CDC eligibility during any period prior to May 31, 2015.

The Department stated that at redetermination, it was determined that Claimant was also income ineligible for the period of April 19, 2015, to May 30, 2015. Although the Department provided other CDC Income Budgets in the hearing packet, the additional budgets for the period at issue were not reviewed, as the Department did not have any other supporting income documentations in the file, and it was established that Claimant was not notified of her ineligibility. Department policy provides that CDC case closures take effect on the negative action date. BAM 220 (April 2015), p. 9. Case actions that end a CDC authorization or close the CDC eligibility determination group are not pending; the change affects the first CDC pay period that begins *on or after the negative action date*. BAM 220, p. 9.

In this case, Claimant was not notified of the negative action closing her CDC case until she was sent the May 8, 2015, Notice of Case Action with respect to the May 31, 2015, case closure. Therefore, only Claimant's CDC benefits after the May 8, 2015, negative action date should have been negatively affected. The Department acknowledged that there were certain errors with respect to the information contained in the notice/correspondence that was sent to Claimant, as it conflicted with the eligibility information contained on Bridges. Thus, the Department did not act in accordance with Department policy when it denied Claimant's provider CDC benefits from April 19, 2015, to May 30, 2015.

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 processed Claimant's CDC benefits.

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. Reinstate Claimant's CDC case effective May 31, 2015;
2. Allow Claimant's CDC provider to bill for CDC services provided on Claimant's behalf between April 19, 2015, and May 30, 2015;
3. Issue supplements to Claimant's provider for CDC benefits Claimant was entitled to receive between April 19, 2015, and May 30, 2015, in accordance with Department policy;
4. Redetermine Claimant's eligibility for CDC for May 31, 2015,

5. Issue supplements to Claimant's provider for CDC benefits Claimant was entitled to receive from May 31, 2015, ongoing; and
6. Notify Claimant in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/29/2015**

Date Mailed: **7/29/2015**

ZB / tlf

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]
[REDACTED]