

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 15-011158  
Issue No.: 3001  
Case No.: [REDACTED]  
Hearing Date: August 27, 2015  
County: OAKLAND-DISTRICT 2  
(MADISON HTS)

**ADMINISTRATIVE LAW JUDGE:** [REDACTED]

**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, telephone hearing was held on August 27, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], Eligibility Specialist, and [REDACTED], Assistance Payments Supervisor.

**ISSUE**

Did the Department of Health and Human Services (Department) properly close the 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. The Claimant was an ongoing Child Development and Care (CDC) recipient.
2. On May 18, 2015, the Department notified the Claimant that it would close his Child Development and Care (CDC) benefits as of May 31, 2015.
3. On June 22, 2015, the Department received the Claimant's request for a hearing protesting the closure of his Child Development and Care (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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2014), pp 6-7.

The Claimant was an ongoing CDC recipient when the Department evaluated his eligibility for continuing benefits. The Department alleges that the Claimant received earned income from employment in the gross monthly amount of \$ [REDACTED]. The Department provided copies of four paycheck stubs as evidence of the Claimant's earned income. The Department alleges that the Claimant's monthly income exceeds the \$ [REDACTED] limit to receive CDC benefits as a group of three.

This Administrative Law Judge finds that when the average of the four paycheck stubs (\$ [REDACTED], \$ [REDACTED], \$ [REDACTED], \$ [REDACTED]) is multiplied by the 4.3 conversion factor, the result is not \$ [REDACTED]. The Department was unable to present evidence on the record supporting its finding of \$ [REDACTED] monthly income.

The Claimant testified that he works 37 hours per week at a rate of \$ [REDACTED] per hour, which amounts to a monthly income of \$ [REDACTED]. The Claimant testified that any additional income received in any particular paycheck is not expected to continue.

The Department is permitted by BEM 505 to apply a period other than 30 days for determining monthly income if it does not appear to accurately reflect the income that is expected to be received in the benefit month. BEM 503, pp 5-7.

The Department has the burden of establishing that it properly applied its policies to the Claimant's circumstances when it closed the Claimant's eligibility for CDC benefits. Considering how close the Claimant is to the eligibility limit, this Administrative Law Judge finds that the Department's failure to demonstrate how it determined that the Claimant receives a monthly income of \$ [REDACTED] is not harmless 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Claimant's Child Development and Care (CDC) benefits based on income.

### **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. Allow the Claimant a ten-day period to provide the Department with verification of his income over the previous 90 days.
2. Initiate a determination of the Claimant's eligibility for Child Development and Care (CDC) benefit as of May 31, 2015.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.

  
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Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **9/1/2015**

Date Mailed: **9/1/2015**

KS/ [REDACTED]

**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:

