

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-011392
Issue No.: 5001 6000
Case No.: ██████████
Hearing Date: August 27, 2015
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 27, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Michigan Department of Health and Human Services (MDHHS) included ██████████, hearing facilitator.

ISSUES

The first issue is whether the Michigan Administrative Hearing System has jurisdiction to resolve a dispute concerning complaints about MDHHS in the Child Development and Care application approval process.

The second issue is whether MDHHS properly denied Claimant's State Emergency Relief application due to excess income.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On April 10, 2015, Claimant applied for SER seeking ██████████ in relocation assistance.
2. Claimant received the following biweekly gross employment pays: ██████████8 on March 13, 2015, and ██████████ on March 27, 2015.

3. Claimant also received the following weekly gross employment pays from a second job: ██████ on March 12, 2015, ██████ on March 19, 2015, ██████ on March 26, 2015, and ██████ on April 2, 2015.
4. On May 8, 2015, MDHHS mailed Claimant a Benefit Notice informing Claimant off an SER denial due to Claimant's income copayment exceeding her SER request.
5. On June 22, 2015, Claimant requested a hearing to dispute the SER application denial and to express complaints concerning an approval for CDC benefits.

CONCLUSIONS OF LAW

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. MDHHS 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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Claimant's hearing request indicated a CDC dispute. Claimant testified that she was approved for CDC benefits and had no dispute concerning her eligibility. Claimant testified she requested a hearing because she was dissatisfied with MDHHS statements and/or requirements before getting approved for benefits.

The Michigan Administrative Hearing System may grant a hearing about any of the following (see BAM 600 (June 2015), p. 4):

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

Among other complaints, Claimant testimony alleged that MDHHS unnecessarily required her to submit documents multiple times and that the approval of CDC took longer than it should have. Based on Claimant's testimony, she had reason to be irked by the process. If MDHHS denied Claimant's CDC application for a superfluous procedure, an administrative remedy could be justified. An administrative remedy cannot be justified without a dispute concerning some error concerning eligibility;

Claimant failed to express such an error. Concerning CDC benefits, Claimant's hearing request will be dismissed.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Services Emergency Relief Manual (ERM).

Claimant requested a hearing, in part, to dispute a denial of SER benefits. MDHHS conceded that Claimant was not initially sent proper written notice of denial. It was not disputed on May 8, 2015, that MDHHS mailed Claimant a Benefit Notice stating the reason for denial was that Claimant's income copayment exceeded the amount of SER requested.

It was not disputed that Claimant was a member of a 2-person SER group. The amounts budgeted for Claimant's employment income were disputed.

Claimant had two jobs as of the date of her SER application, one which paid her weekly, the other bi-weekly. For Claimant's weekly-paid employment, Claimant received a total of ██████ in gross income for the 30-day period, encompassing March 12, 2015 through April 2, 2015 (see Exhibits 3-5).

Claimant's income from her second job was disputed. It was not disputed that Claimant's second job was as a waitress. Claimant estimated that she worked approximately 25 hours per week.

MDHHS presented testimony that Claimant's pays from her bi-weekly job were obtained from The Work Number. The Work Number is a computer database maintaining employee information for participating employers. It was not disputed that the database stated that Claimant received gross pays of ██████ on March 13, 2015, and ██████ on March 27, 2015. Claimant's net pays were listed to be ██████ on March 13, 2015, and ██████ on March 27, 2015. Claimant presented no evidence disputing The Work Number documentation.

The massive difference between Claimant's gross earnings and net earnings was odd. Claimant contended that her take-home pay for her waitressing employment was closer to ██████ per 2 weeks. If Claimant's testimony was true, Claimant would have netted ██████ per hour for her waitressing employment- an improbable scenario. If Claimant's gross pays from the Work Number was accurate, Claimant would have grossed approximately ██████ - a very reasonable expectation for a waitress. Based on presented evidence, it is found that Claimant's gross pays were accurately reflected on The Work Number documentation. Thus, Claimant's gross monthly income from her waitressing job is found to be \$█████.

Adding Claimant's employment income from her two jobs results in a total of \$2,532.81. Applying a 25% employment-income deduction (see ERM 206 (October 2013), p. 5), results in a net countable income of \$ [REDACTED]

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208 (October 2014), p. 1. The income-need standard for a group size of 2 is [REDACTED] *Id.*, p. 5.

Subtracting Claimant's income need standard [REDACTED] from her monthly income results in an income copayment of [REDACTED]. Because Claimant's income copayment [REDACTED] exceeds the amount of her request [REDACTED], a denial of SER is proper.

As it happened, MDHHS calculated Claimant's income copayment to be [REDACTED]. Though the MDHHS-calculated income copayment does not appear to be supported by evidence, the error is harmless as Claimant would not have been eligible for SER based on presented evidence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to allege a dispute within the jurisdiction of the Michigan Administrative Hearing System concerning CDC benefits. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Claimant's SER application dated April 10, 2015. The actions taken by MDHHS are **AFFIRMED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/28/2015**

Date Mailed: **8/28/2015**

GC/tm

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]
[REDACTED]