



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 23, 2016
MAHS Docket No.: 16-003938
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Petitioner'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 May 12, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department). Witnesses on behalf of the Department included [REDACTED] (Eligibility Specialist).

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Petitioner's 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. On January 25, 2016, the Department received the Petitioner's Child Development and Care (CDC) application. Exhibit A.
2. The Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] Exhibit B.
3. On March 10, 2016, the Department notified the Petitioner that it had denied her Child Development and Care (CDC) application based on her income. Exhibit C.

4. On March 18, 2016, the Department received the Petitioner's request for a hearing protesting the denial of her Child Development and Care (CDC) application.

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 is countable unless excluded by policy. 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 (January 1, 2016).

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 7-8.

Eligibility for CDC benefits is based on the program group size and non-excluded income received by any member of the program group. In order to enter the CDC program, the group's gross monthly income cannot exceed the \$15.00 flat-rate family contribution for their family group size. Department of Health and Human Services Bridges Eligibility Manual (BEM) 703 (January 1, 2016), p 15.

For a group of two, the income limit to enter the CDC program is \$ [REDACTED] Department of Health and Human Services Reference Table Manual (RFT) 270 (January 1, 2016), p 1.

On January 25, 2016, the Department received the Petitioner's application for CDC benefits and she was not an ongoing recipient. The Department determined that the Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] by multiplying the average of her bi-weekly paychecks in the amounts of \$ [REDACTED] and \$ [REDACTED] by the 2.15 conversion factor as required by BEM 505. Since the Petitioner's gross monthly income exceeds the \$15.00 flat-rate family contribution for their family group size, the Department denied the CDC application.

The Petitioner argued that it was unfair to determine her eligibility for CDC benefits based on her gross income because this income is not available to her.

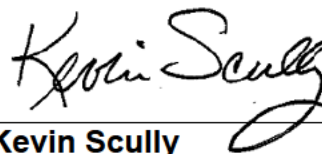
The Petitioner's grievance centers on dissatisfaction with the Department's current policy. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Department was acting in accordance with policy when it applied the Petitioner's gross income with the limit for an initial application to the CDC program. This Administrative Law Judge does not have the authority to grant an exception to this policy.

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 acted in accordance with Department policy when it denied the Petitioner's Child Development and Care (CDC) application based on her income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



KS/las

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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]