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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: June 22, 2016
MAHS Docket No.: 15-013870-RECON
Agency No.: [REDACTED]
Petitioner: [REDACTED]

SUPERVISING ADMINISTRATIVE LAW JUDGE-MANAGER: Jonathan W. Owens

ORDER DENYING REQUEST FOR REHEARING/RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Manager pursuant to Department of Health and Human Service's (Department) Request for Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge at the conclusion of the hearing conducted on September 23, 2015, and mailed on November 30, 2015, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements. MCL 24.287 also provides for rehearing if the hearing record is inadequate for judicial review.

A rehearing is a full hearing which **may** be granted if

- The original hearing record is inadequate for purposes of judicial review;
- There is newly discovered evidence **that existed** at the time of the original hearing that could affect the outcome of the original hearing decision.

A reconsideration is a paper review of the facts, law or legal arguments and any newly discovered evidence **that existed** at the time of the hearing. It **may** be granted when the original hearing record is adequate for purposes of judicial review and a rehearing is **not** necessary, but one of the parties is able to demonstrate that the Administrative Law Judge failed to accurately address all the relevant issues **raised in the hearing request**. Reconsiderations **may** be granted if requested for one of the following reasons:

- Misapplication of manual policy or law in the hearing decision;

- Typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the appellant
- Failure of the Administrative Law Judge to address other relevant issues in the hearing decision.

In the instant case, the Department filed a request, asserting the Administrative Law Judge (ALJ) misapplied law and/or policy. The issue presented is whether the Department properly denied Petitioner's July 1, 2015 application for Child Development and Care (CDC) benefits. At the time relevant to this matter, Petitioner's CDC group size was [REDACTED], and her total countable gross income was [REDACTED]. The Department determined that the Petitioner was not eligible because: "the 95 percent entry limit for a group size of [REDACTED] is [REDACTED]."

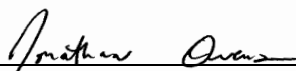
The ALJ disagreed with the Department, and stated correctly that the table in RFT 270 showed that the income limit of CDC eligibility for a group size of [REDACTED] is [REDACTED]. The Department contends the assigned Administrative Law Judge misapplied CDC policy.

The assigned Administrative Law Judge properly reversed the Department's CDC eligibility determination based on the CDC policy in effect at the time of the eligibility determination. Effective July 2015, RFT 270 stated that in order to be initially eligible for subsidy benefits, the program group's gross income cannot exceed 95 percent of the income eligibility scale for the group size. According to RFT 270, the *Percent of the CDC Rate Paid* by the Department is anywhere from 30%-95% and is listed on the Income Eligibility Scale. Effective July 2015, RFT 270 stated clearly that there is no DHS assistance if gross monthly income is over [REDACTED]. There was no CDC policy that clearly supported the conclusion that in order to be initially eligible for CDC benefits, the program group's gross income could not exceed 95 *Percent of the CDC Rate Paid*.

Accordingly, the Request for Rehearing/Reconsideration is **DENIED**.

IT IS SO ORDERED.

JWO/tm



Jonathan W. Owens
Supervising 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.

DHHS

