



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 13, 2016
MAHS Docket No.: 16-002429
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 April 07, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly denied 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 13, 2016, the Department received the Petitioner's application for Child Development and Care (CDC) benefits. Exhibit A, p 39.
2. On January 13, 2016, the Department sent the Petitioner a Verification Checklist (DHS-3503) requesting verification of income by January 25, 2016. Exhibit A, p 54.
3. The Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 56-62.
4. On February 8, 2016, the Department notified the Petitioner that it had denied her Child Development and Care (CDC) application. Exhibit A, p 63.

5. On February 19, 2016, the Department received the Petitioner's request for a hearing protesting the denial of her Child Development and Care (CDC) application. Exhibit A, p 2.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

On February 19, 2016, the Department received the Petitioner's request for a hearing that indicated she was protesting MA and FAP benefits. During the hearing, the Petitioner testified that she was only protesting the Child Development and Care (CDC) program.

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.

In order to enter the CDC program, the family's gross monthly income cannot exceed the \$ [REDACTED] flat-rate family contribution for their family size. Department of Health and Human Services Reference Table Manual (RFT) 270 (January 1, 2016), p 1.

On January 13, 2016, the Department received the Petitioner's application for CDC benefits. The Petitioner received earned income from employment in the gross monthly amount of \$ [REDACTED]. On February 8, 2016, the Department notified the Petitioner that it had denied her CDC application.

The Petitioner was previously a recipient of CDC benefits but those benefits closed and she is considered a new applicant. Under the current policy, new applicants for CDC benefits are required to meet the income qualifications under the category of the highest rate of Department subsidy. Once enrolled in the program, CDC recipients do not risk losing their CDC benefits by obtaining increasing income but instead only have their contributions to child care expenses increased.

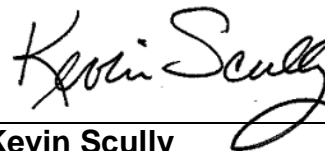
In this case, the Petitioner had already obtained employment with a higher rate of pay when she re-applied for CDC benefits but is required to qualify for benefits as a new applicant. The Petitioner argued that these requirements place her at risk of losing her job in order to maintain child care.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. 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 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 application for Child Development and Care (CDC) based on her earned income.

DECISION AND ORDER

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



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

KS/las

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]