

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]
Claimant

Reg. No: 2009-37157
Issue No: 6019, 2015, 1038, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 27, 2009
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on October 27, 2009. Claimant was present and testified. Catherine Gernaat, CM, and Julie Stebbin, FIM, appeared on behalf of the department.

ISSUES

1. Did the Department of Human Services (department) properly deny claimant's Child Development and Care (CDC) application?
2. Did the department properly close claimant's Medical Assistance (MA) benefits?
3. Did the department properly close claimant's Family Independence Program (FIP) benefits?
4. Did the department properly adjust claimant's monthly Food Assistance Program (FAP) allotment?

FINDINGS OF FACT

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

(1) On February 12, 2009, claimant applied for CDC, MA, FIP, and FAP benefits for herself, her husband and a child for whom she was the Power of Attorney. (Department Exhibit 1, pgs. 1-7)

(2) Claimant has provided the department with copies of two Petitions for Guardianship regarding this child, one signed December 23, 2008 and the other signed August 26, 2008. (Department Exhibit 1, pgs. 8-11)

CDC

(3) On March 27, 2009, the department issued a Notice of Case Action indicating the CDC application was denied because “CDC need block filed in error” (Department Exhibit 1, pgs. 17-19)

(4) On April 2, 2009, the department issued a Notice of Case Action indicating the CDC benefits were approved effective April 12, 2009. (Department Exhibit 1, pgs. 30-31)

(5) On May 5, 2009, the department issued a Verification Checklist for claimant to provide verification that the CDC benefits were needed because of employment and additional information about CDC provider assignment by May 15, 2009. (Department Exhibit 1, pgs. 32-33)

(6) On May 13, 2009, the department issued a Verification Checklist because additional information about CDC provider assignment was still needed and a new due date of May 26, 2009 was given. (Department Exhibit 1, pg. 37)

(7) On May 19, 2009, the department issued a Verification Checklist for claimant to provide verification of wages, salaries, tips and commissions as well as additional information about CDC provider assignment by May 29, 2009. (Department Exhibit 1, pgs. 45-46)

(8) On May 29, 2009, the department issued a Notice of Case Action that the CDC benefits were denied April 12, 2009 because “the parent/substitute parent requested hours needed for child day care assistance is zero.” (Department Exhibit 1, pgs. 49-50)

(9) On August 24, 2009, claimant requested a hearing, in part because she had not received the CDC benefits.

MA

(10) Claimant’s MA application was approved March 27, 2009. (Department Exhibit 1, pg. 17)

(11) On August 6, 2009, the department issued an Appointment Notice regarding a redetermination scheduled for August 13, 2009. (Department Exhibit 1, pg. 67)

(12) On August 20, 2009, the department issued a Notice of Case Action that the MA benefits would close September 1, 2009 because requested information needed for re-determination was not returned. (Department Exhibit 1, pgs. 68-70)

(13) On August 24, 2009, claimant requested a hearing, in part to contest the MA determination.

(14) The department testified that the MA benefits closed September 1, 2009 because guardianship was not finalized.

(15) On September 10, 2009, a Verification Checklist was issued for claimant to provide documentation of the status of the Guardianship petition by September 21, 2009. (Department Exhibit 1, pg. 74)

FIP

(16) Claimant’s FIP application was approved March 27, 2009. (Department Exhibit 1, pg. 17)

(17) Claimant was required to participate in 20 hours of work-related activities each week for the JET program.

(18) A triage meeting was scheduled for May 19, 2009 because claimant was not meeting the participation requirements. (Department Exhibit 1, pgs, 25 and 39)

(19) A May 14, 2009 department e-mail document reported that claimant would begin a 32-hour a week work schedule the next week. (Department Exhibit 1, pg. 36)

(20) At the May 19, 2009 triage meeting, the department found claimant had good cause for not meeting the participation requirements because of her employment and also indicated that claimant had provided copies of pay stubs. (Department Exhibit 1, pgs. 44 and 62)

(21) On June 7, 2009, claimant reported her work hours were reduced to 12 hours a week. (Department Exhibit 1, pg. 55)

(22) On June 9, 2009, the department issued a Notice of Noncompliance and scheduled another triage meeting for June 16, 2009. (Department Exhibit 1, pg. 60)

(23) The triage meeting was re-scheduled for June 23, 2009. (Department Exhibit 1, pgs. 63-65)

(24) Claimant arrived late for the June 23, 2009 triage meeting due to a misunderstanding of the location for this meeting.

(25) On June 23, 2009, the department talked with claimant but did not find good cause for the noncompliance. (Department Exhibit 1, pg. 66)

(26) The department issued a Case Action Notice on August 20, 2009 indicating the FIP benefits would stop September 1, 2009 because information needed for redetermination had not been provided. (Department Exhibit 1, pgs. 68-69)

(27) On August 24, 2009, claimant requested a hearing, in part to contest the FIP determination

FAP

(28) Claimant was an ongoing recipient of FAP benefits when she filed the February 12, 2009 application.

(29) On May 12, 2009, claimant called and reported her husband was no longer in the household. (Department Exhibit 1, pg. 23)

(30) On June 2, 2009, the department issued a Notice of Case Action that claimant's FAP benefits would decrease to \$48 per month effective June 1, 2009 based on removing her husband from the household group. (Department Exhibit 1, pgs. 51-54)

(31) On June 6, 2009, the department issued another Notice of Case Action indicating that effective July 1, 2009, claimant's FAP benefits would increase to \$367 per month, based on a newly completed budget of claimant's income and expenses. This notice also indicated claimant was owed additional benefits for the month of June 2009. (Department Exhibit 1, pgs. 56-59)

(32) On August 24, 2009, claimant requested a hearing, in part because she had not received all of the FAP benefits the department indicated she was owed.

CONCLUSIONS OF LAW

CDC

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990 and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (PAM), the Bridges Eligibility Manual (PEM) and the Program Reference Manuals.

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. The Department of Human Services (Department) may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

Eligibility for Child Development and Care services exists when the Department has established all of the following:

- a signed application requesting CDC services, and
- each parent/substitute parent is a member of a valid eligibility group, and
- each parent/substitute parent meets the need (Reason) criteria as outlined in policy, and
- an eligible provider is providing the care, and
- all eligibility requirements are met. BEM 703.

Regarding applications, policy states that the applicant/client is the person who signs the application and who serves as primary contact with DHS. This person must live with the child(ren) for whom care is requested, and be one of the following in relation to the child(ren) needing care:

- parent, stepparent or foster parent of the child
- another related person acting as caretaker to the child
- legal guardian of the child
- an unrelated adult who is at least age 21 and whose petition for legal guardianship of the child is pending
- an unrelated adult with whom DHS Children's Services has placed a child, subsequent to a court order identifying DHS as responsible for the child's care and supervision

- the FIP grantee for the child. BEM 205.

Regarding CDC, need reasons are allowed under department policy, family preservation, high school completion, an approved activity, or employment. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested and each need reason must be verified. BEM 703.

In the present case, claimant filed a CDC application on February 12, 2009. At the hearing, the department testified that the application was approved on April 2, 2009. However, the documentation submitted by the department indicates that the department initially denied the application March 27, 2009, issued an approval on April 2, 2009 effective April 12, 2009, but then denied the CDC benefits on May 29, 2009 effective April 12, 2009. The department also noted in a September 10, 2009 Verification Checklist requesting additional information from claimant needed to determine eligibility for other benefit programs, that the Day Care Application from February forward had been denied. (Department Exhibit 1, pg. 74)

On March 27, 2009, the department issued a Notice of Case Action indicating the CDC application was denied because "CDC need block filed in error." (Department Exhibit 1, pgs. 17-19) This appears to have been a processing error given the stated denial reason and that on April 2, 2009 the department issued a Notice of Case Action indicating the CDC benefits were approved effective April 12, 2009. (Department Exhibit 1, pgs. 30-31)

In the documentation submitted, the department next issued a Verification Checklist on May 5, 2009 for claimant to provide verification that the CDC benefits were needed because of employment and additional information about CDC provider assignment by May 15, 2009. (Department Exhibit 1, pgs. 32-33) On May 13, 2009, the department issued a Verification Checklist because additional information about CDC provider assignment was still needed and a new due date of May 26, 2009 was given. (Department Exhibit 1, pg. 37) On May 19, 2009, the

department issued a Verification Checklist for claimant to provide verification of wages, salaries, tips and commissions as well as additional information about CDC provider assignment by May 29, 2009. (Department Exhibit 1, pgs. 45-46)

Then, on May 29, 2009, the department issued a Notice of Case Action that the CDC benefits were denied effective April 12, 2009 because “the parent/substitute parent requested hours needed for child day care assistance is zero.” (Department Exhibit 1, pgs. 49-50) It is noted that April 12, 2009 was the date benefits would have been effective per the April 2, 2009 approval notice. (Department Exhibit 1, pgs. 30-31) Accordingly, the department actually denied the CDC application as there was no remaining time period for which benefits were approved.

Claimant testified she thought that the CDC application had been approved but requested the hearing on this program because the child care provider was never paid. As noted above, it appears that the department actually denied the CDC application as the last case action notice was the May 29, 2009 denial and covered the same time period as the prior approval.

However, the department has not provided complete information for this ALJ to determine if the May 29, 2009 denial based on zero requested need hours was correct. The May 19, 2009 Verification Checklist requested documentation relating to claimant’s employment. The documentation submitted by the department does not indicate what, if any, employment verifications were submitted by claimant, although it does appear a new CDC application and Provider Verification form were submitted. (Department Exhibit 1, pgs. 47-48) This May 2009 CDC application still indicates a need reason of employment, however, the second page of the application was not included, which would have indicated the hours requested. (Department Exhibit 1, pg. 47) Accordingly, this ALJ cannot tell how many hours, if any, claimant requested CDC benefits to determine if the denial based upon zero need hours requested is correct.

Based upon the foregoing facts and relevant law, it is found that the department has not met their burden of proof regarding the action taken on claimant's CDC application. The department's testimony that the CDC benefits were approved April 2, 2009 is not supported by the documentation submitted. There is also insufficient evidence to support the last documented department action on the CDC case, the May 29, 2009 denial based on zero need hours requested. Therefore, the department shall re-determine CDC eligibility retroactive to the February 12, 2009 application date.

The department also argued that claimant was not entitled to the CDC benefits because guardianship was never finalized, however from the documentation submitted, this was the reason the CDC benefits were denied. As noted in the policy above, claimant would be a proper CDC applicant under BEM 205 as long as there was a Guardianship petition pending. If the department is concerned about when the Guardianship petition was pending or became finalized for the re-determination of CDC eligibility, the department should send a request to claimant to provide documentation showing when the Guardianship petitions were filed and were pending with the probate court. Claimant's statements that multiple petitions had to be filed because the probate court lost the documents could be supported by the submission of receipts for the fees paid upon filing the petitions, documentation of the refund of fees from the court for the lost petition, or a statement from the court clerk.

MA

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (PAM), the Bridges Eligibility Manual (PEM) and the Program Reference Manuals.

The department periodically re-evaluates cases to ensure that eligibility for program benefits continues. A redetermination is a periodic, thorough re-evaluation of all eligibility factors to determine whether the group continues to be eligible for program benefits. BAM 210. MA benefits stop at the end of the benefit period unless a redetermination is completed and a new benefit period is certified. BAM 210.

Clients must cooperate with the local office in determining initial and ongoing eligibility including completion of necessary forms. BAM 105. Allow clients a full 10 calendar days from the date the verification is requested (date of request is not counted) to provide all documents and information. If the 10th day falls on a weekend or holiday, the verification would not be due until the next work day. BAM 210. A negative action notice is to be sent when the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130.

In the present case, claimant's February 12, 2009 MA application was approved March 27, 2009. (Department Exhibit 1, pg. 17) At the hearing, the department testified that the ongoing MA benefits were closed September 2009 because the Guardianship was never finalized. It is noted that the copies of the two Guardianship petitions claimant previously provided to the department do not contain any documentation they were actually filed with the probate court. (Department Exhibit 1, pgs. 8-11) A Verification Checklist was issued September 10, 2009 requesting documentation of the status of the Guardianship petition by September 21, 2009. (Department Exhibit 1, pg. 74)

An undated notation by the department on the Bridges Case-Search/Summary print out indicates that per a phone call with claimant, there was no court appointed Guardian as yet. (Department Exhibit 1, pg. 76). Claimant testified at the October 27, 2009 hearing that the Guardianship petition was still pending and had not been finalized by the court. However, the Bridges summary was printed on September 10, 2009 also indicated that the MA benefit period

ended August 31, 2009. (Department Exhibit 1, pg. 77) Accordingly, it appears that the department proceeded with a proposed September 1, 2009 closure for failure to provide redetermination information. The department could not have closed MA benefits September 1, 2009 based on the Guardianship status when the request to provide verification of the Guardianship status was not issued to the claimant until September 10, 2009.

The documentation submitted by the department shows that on August 20, 2009 the department issued a Notice of Case Action that the MA benefits would close September 1, 2009 because requested information needed for redetermination was not returned. (Department Exhibit 1, pgs. 68-70) The department did not submit any documentation of when this information was requested from claimant. The only documentation the department submitted regarding redetermination is an August 6, 2009 Appointment Notice regarding a redetermination scheduled for August 13, 2009. (Department Exhibit 1, pg. 67) However this document does not show that claimant was to bring any information to the appointment.

The day after the hearing, claimant submitted additional records including a copy of the DHS 1010 MA and FIP redetermination packet issued by the department on July 17, 2009, which she completed and signed July 21, 2009. (Claimant Exhibit 1, pgs. 2-5) This form indicated a redetermination appointment date of August 6, 2009. (Claimant Exhibit 1, pg. 2)

Further, the documentation submitted by the department does contain pages 2-4 of another DHS 1010, signed by claimant on August 25, 2009. (Department Exhibit 1, pgs. 71-74) If a completed redetermination form was submitted to the department prior to the scheduled termination of MA benefits on September 1, 2009, the department should not have proceeded with the closure for failure to submit information for redetermination..

Based upon the foregoing facts and relevant law, it is found that the department improperly closed MA benefits for failure to submit information needed for redetermination. The department's

testimony that the MA benefits closed September 1, 2009 because guardianship had not been finalized, is not supported by the documentation submitted. The department's request for claimant to provide verification of the status of the Guardianship petition was not made until after the MA benefits were already closed and therefore cannot be considered the basis for the September 1, 2009 MA case action. The only notice sent to claimant regarding a September 1, 2009 MA closure was based on failure to provide redetermination information. However, it appears claimant completed two redetermination packets prior to the proposed September 1, 2009 closure date. Therefore, the department shall re-instate claimant's MA benefits retroactive to the September 1, 2009 closure.

FIP

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

The Family Independence Program (FIP) provides temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency-related activities so they can become self-supporting. Federal and State laws require each work eligible individual (WEI) in the FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless temporarily deferred or engaged in activities that meet participation requirements. These clients must participate in employment and/or self-sufficiency related activities to increase their employability and obtain stable employment. BEM 230A.

JET is a program administered by the Michigan Department of Labor and Economic Growth (DLEG) through the Michigan Works Agencies (MWAs). The JET program serves employers and job seekers for employers to have skilled workers and job seekers to obtain jobs that provide economic self-sufficiency. BEM 230 A. A mandatory participant in the JET program who fails without good cause to participate in employment activity must be penalized. BEM Manual Item 233(a). The penalty for the first occurrence of noncompliance in the JET program is a closure for a minimum of three calendar months under the FIP program. BEM Manual Item 233(a). If a customer is found in noncompliance with FIP when they are also a recipient of FAP, their FAP case will also be penalized for a minimum of three months under the JET program. BEM Manual Item 233(b); 42 USC 607. Good cause is a valid reason for noncompliance with employment related activities. A claim of good cause must be verified and documented for applicants, members, and recipients. BEM Manual Item 230(a), BEM Manual Item 230(b); 7 CFR Parts 272 and 273.

In the present case, the department testified they determined claimant was noncompliant because she not meeting the requirements for participation in work-related activities. The documentation indicates the first triage meeting was held May 19, 2009 and good cause for not meeting the participation requirements was found because claimant was going to be working 32 hours a week. (Department Exhibit 1, pgs. 44 and 66) On June 7, 2009, claimant called in reporting that her hours were reduced to 12 hours a week. (Department Exhibit 1, pg. 55) The department then issued another Notice on Noncompliance on June 9, 2009 scheduling a second triage meeting for June 16, 2009, indicating claimant was not participating in required activity. (Department Exhibit 1, pgs. 60) This triage meeting was re-scheduled to June 23, 2009 and claimant arrived late because she had first gone to the location on the prior triage meeting.

On June 23, 2009, claimant talked with the department about the alleged noncompliance, although the department did not consider this conversation a triage meeting. The department

explained that good cause was found at the first triage meeting because claimant reported she would be working 32 hours a week. However, when claimant later called in reporting that she was only working 12 hours a week, this was not enough to exclude her from participating in work-related activities through the JET program. Claimant explained that she had been fired because she lost her day care. However, when the department contacted the child care provider, they were informed that child care services never stopped. Accordingly, the department did not find good cause was established by claimant based on the June 23, 2009 discussion. (Department Exhibit 1, pg. 66)

At the hearing claimant testified that she was supposed to be working 32 hours a week but because of a loss of homecare clients, the employer reduced her hours. From the pay stubs submitted, it appears claimant's employment was for a homecare and medical staffing company. (Department Exhibit 1, pgs. 34-35) Claimant may have had good cause because she cannot control an unanticipated reduction in hours by the employer when they lose homecare clients. Further, the department has not provided any documentation that a notice was ever issued to claimant to report to the JET contractor for the required participation hours.

Claimant also testified that the day care was also a problem for meeting the required participation or work hours. Claimant testified that she believed the CDC application was approved and the department had indicated they would fix things so her provider could be paid. It is likely that there was confusion regarding the status of the day care benefits. As discussed above, the department issued an approval and two denials in processing claimant's CDC application. However, since the day care provider reported to the department that child care services never stopped, claimant cannot claim a lack of child care as good cause for not meeting the participation requirements.

However, the department's testimony as to the reason the benefits closed--failure to participate in work-related activities, is not the documented reason the benefits closed as evidenced

by the notice issued to the claimant. The only FIP denial notice issued to claimant in the documentation submitted was dated August 20, 2009 and indicates that the FIP benefits would close for failure to provide information for redetermination effective September 1, 2009. (Department Exhibit 1, pgs. 68-69) Ultimately, because the only documented notice of a FIP closure issued to the claimant was not based on the failure to participate in work-related activities, it is not necessary for this ALJ to make a good cause determination. Instead the documented closure reason, the failure to submit information necessary for re-determination, shall be reviewed instead.

The department did not submit any documentation that redetermination information was ever requested from claimant regarding the FIP benefit case. The only documentation the department submitted regarding redetermination is an August 6, 2009 Appointment Notice regarding a redetermination scheduled for August 13, 2009. (Department Exhibit 1, pg. 67) However, this document does not show that claimant was to bring any information to the appointment.

The day after the hearing claimant submitted additional records including a copy of the MA and FIP redetermination packet issued by the department on July 17, 2009, which she completed and signed July 21, 2009. (Claimant Exhibit 1, pgs. 2-5) This form indicated a redetermination appointment date of August 6, 2009. (Claimant Exhibit 1, pg. 2) As noted above, the record also contains pages 2-4 of a redetermination packet completed by claimant August 25, 2009. (Department Exhibit 1, pgs. 71-74)

Based upon the foregoing facts and relevant law, it is found that the department improperly closed FIP benefits for failure to submit information needed for redetermination. The department's testimony that the FIP benefits closed for failure to participate in work-related activities is not supported by the documentation submitted. The only notice sent to claimant regarding a September 1, 2009 FIP closure was based on failure to provide redetermination information. However, it

appears claimant completed two redetermination packets prior to the proposed September 1, 2009 closure date. Accordingly, the department's documented FIP closure for failure to provide redetermination information can not be upheld. Therefore, the department shall re-instate the FIP benefits retroactive to the September 1, 2009 closure.

FAP

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manuals.

FAP benefits are issued based upon household eligibility. (7 CFR 273.10) In determining FAP group composition the department considers who lives together, the relationship(s) of the people who live together, and whether the people living together purchase and prepare food together or separately. BEM 212. The department also calculates a FAP budget for the eligible household members, including countable income and allowed expenses. BEM 550, 554 and 556. The Food Assistance Issuance Tables indicate the amount of the FAP allotment a household is entitled to based upon the group size and calculated monthly net income. BEM 556 and RFT 260)

In the present case, claimant was an ongoing FAP recipient in a house hold of three persons, including her husband and the child for whom claimant indicated she was in the process becoming the legal Guardian. Claimant reported her husband left the household on May 12, 2009. (Department Exhibit 1, pg. 23) Accordingly, the department removed the husband from the group and determined that the remaining household members were only entitled to an ongoing monthly FAP allotment of \$48 effective June 1, 2009. (Department Exhibit 1, pgs. 51-54)

However, the department recalculated the FAP budget using claimant's income and expenses a few days later and determined that this group of two was entitled to an ongoing monthly FAP allotment of \$367, effective July 1, 2009. (Department Exhibit 1, pgs. 56-59) The June 6, 2009 Case Action Notice also indicated claimant was also owed a supplement for the June 2009 benefits of \$248. (Department Exhibit 1, pg. 59)

The department testified that the claimant was not consistent in reporting whether her husband was in or out of the home. The department noted that claimant listed her husband as living in the household on a CDC application completed in mid May 2009, just a few days after she called in reporting that he left. (Department Exhibit 1, pg. 47) However, the department did not add the husband back into the group when the FAP budget was re-calculated June 6, 2009. (Department Exhibit 1, pgs. 56-59) Accordingly, the parties' disagreement as to claimant's reporting that her husband left the household did not actually affect the action taken by the department in this case. It appears the budget was recalculated based on changes in wages reported for the FIP case.

Claimant testified she has not received the full FAP benefits and the department indicated she was owed. Claimant indicates that she believed the department determined she was entitled to \$403 a month in FAP benefits. (Claimant Exhibit 1, pg. 1) However, no documentation has been submitted showing the department ever determined this was the calculated FAP allotment. The June 8, 2009 Case Action Notice issued by the department indicated an ongoing cash assistance amount of \$403 under the FIP program. The FAP allotment indicated on this notice is still \$367, effective July 1, 2009. (Department Exhibit 1, pgs. 56-57)

Based upon the foregoing facts and relevant law, it is found that the department properly adjusted the FAP budget to account for changes in household composition and income. However, the department, if they have not already done so, shall ensure that claimant was provided with the supplemental benefits for June 2009 as indicated in the June 6, 2009 Case Action Notice.

In her October 28, 2009 fax, claimant also submitted a partial copy of an October 1, 2009 Case Action Notice indicating the FAP benefits would close November 1, 2009. (Claimant Exhibit 1, pgs. 13-14) However, this ALJ cannot consider that department action in rendering this Decision and Order because the negative action occurred after the hearing request was filed and the issue of a closure of the FAP benefits was not raised during the hearing. If claimant disagrees with the October 1, 2009 department action on the FAP case, she may file a separate hearing request for this issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides:

(1) The department has not met its burden of proof to support the action taken on claimant's CDC application. Therefore the department's CDC determination is REVERSED and it is ORDERED that the department re-determine CDC eligibility retroactive to the February 12, 2009 application date.

(2) The department improperly closed MA benefits for failure to submit information needed for redetermination. Therefore, the department's MA determination is REVERSED and it is ORDERED that the department re-instate claimant's MA benefits retroactive to the September 1, 2009 closure.

(3) The department improperly closed FIP benefits for failure to submit information needed for redetermination. Therefore the department's FIP determination is REVERSED and it is ORDERED that the department re-instate claimant's FIP benefits retroactive to the September 1, 2009 closure.

(4) The department properly adjusted the FAP budget to account for changes in household composition and income. Therefore the department's FAP determination is AFFIRMED.

However, it is further ORDERED, that if the department has not already done so, claimant shall be provided with the supplemental FAP benefits for June 2009 as indicated in the June 6, 2009 Case Action Notice.



Colleen Lack
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 9, 2009

Date Mailed: December 9, 2009

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the mailing date of the rehearing decision.

CL/cv

cc:

