

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201036054
Issue No: 3002; 3003; 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 16, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 hearing was held on June 16, 2010.

ISSUE

Was the claimant's FAP allotment computed and allocated correctly?

Was the claimant's CDC application correctly denied?

Is the Department entitled to recoup an over-issuance of FAP benefits?

FINDINGS OF FACT

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

- (1) Claimant was a FAP and CDC applicant in Macomb County.
- (2) Claimant's FAP budget determined that claimant was eligible for FAP benefits in the amount of \$66.
- (3) Claimant's income was prospected using a multiplier of 2.165.

- (4) Claimant simultaneously applied for CDC benefits.
- (5) Claimant's CDC application was denied due to excess income.
- (6) The Department did not request verification of, or use in the FAP budget, claimant's CDC expenses.
- (7) Claimant was also determined to have a FAP over-issuance of \$153.
- (8) No evidence was submitted to show how this over-issuance was calculated.
- (9) Claimant filed for hearing on April 8, 2010, alleging that DHS incorrectly computed her FAP budget, incorrectly denied her CDC application, and incorrectly determined an over-issuance.

CONCLUSIONS OF LAW

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 Bridges Reference Manual (BRM).

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 contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500. A standard deduction from income of \$132 is allowed for certain households. Certain non-reimbursable medical expenses above \$35 a month may be deducted for senior/disabled/veteran group members. Another deduction from income is provided if monthly shelter costs are in excess of 50% of the household's income after all of the other deductions have been allowed, up to a maximum of \$459 for non-senior/disabled/veteran households. BEM, Items 500 and 554; RFT 255; 7 CFR 273.2. Only heat, electricity, sewer, trash and telephone are allowed deductions. BEM 554. Any other expenses are considered non-critical, and thus, not allowed to be deducted from gross income. Furthermore, RFT 255 states exactly how much is allowed to be claimed for each deduction.

When determining eligibility for CDC benefits, gross income is compared against a strict group size based income limit. In the current case, the income limit for a group of claimant's size is \$1990. RFT 270. Claimant was calculated to have a gross income of \$2080. While this prospective income was calculated using an incorrect multiplier of 2.165—the correct multiplier for bi-weekly income is 2.15—this error has been determined by the undersigned to be harmless. Even using the correct multiplier, claimant's gross income would still be over the income limit for CDC benefits. Claimant verified that her submitted income verification was accurate. Therefore, as claimant's

income exceeds the CDC income eligibility limit, the Administrative Law Judge holds that the Department was correct when it denied claimant's CDC application, as claimant does not meet income eligibility standards for this program.

With regard to the FAP case, the Administrative Law Judge has reviewed the FAP budget and finds that the Department did not properly compute the claimant's gross income. The gross earned income amount must be counted as income, which was determined to be \$2080 in the current case, before any deductions. BEM 500. However, this amount, as discussed above, was calculated using a bi-weekly multiplier of 2.165. Policy explicitly states that the bi-weekly multiplier is 2.15. Claimant's pay amounts were verified by the claimant during the course of the hearing.

Therefore, as the Department incorrectly calculated claimant's gross income, the Department must recalculate the FAP budget.

Furthermore, the federal regulations at 7 CFR 273.10 provide standards for the amount of a household's benefits. Claimant verified that her rent and housing expense deduction was accurate. Claimant was given a utility deduction. However, the Administrative Law Judge does not believe that claimant was given a chance to claim all proper income deductions.

Dependent care deductions can be claimed for any unreimbursed child care expenses. BEM 554. As claimant was properly denied for CDC benefits, claimant had child care expenses. While the claimant did not strictly report child care expenses, the undersigned holds that the Department should have been aware that claimant had child care expenses when she filled out an application for CDC benefits, and was subsequently denied for said benefits. As the Department was aware of these

expenses, the Department should have given claimant a chance to submit verification of these expenses. The Department did not, and therefore, claimant's budget is inaccurate based on the information the Department had in its possession at the time. The FAP budget must therefore be recalculated, using claimant's dependent care expenses.

Finally, with regard to the Department's requested over-issuance recoupment, the undersigned notes that the Department failed to submit any budgets that show how claimant was over-issued benefits. There is no evidence in the file that shows claimant was over-issued FAP benefits, much less evidence that shows claimant received an over-issuance that must be recouped. Therefore, as the Department has failed to show that claimant received an over-issuance of benefits, recoupment must be denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to award claimant a FAP allotment of \$66 was incorrect. The decision to deny claimant's CDC application was correct. The Department has not shown an over-issuance in the current case that they are entitled to recoup.

Accordingly, the Department's decision is **AFFIRMED IN PART** and **REVERSED IN PART**.

Recoupment is **DENIED**.

The Department is **ORDERED** to recalculate claimant's FAP budget and include claimant's dependent care expenses in the calculation of said budget, and award to the claimant any supplemental benefits to which she is otherwise entitled. If the

Department requires verification of these expenses, the Department is FURTHER ORDERED to request verification of these expenses. Claimant is ORDERED to return these verifications within the time limitations specified by policy. Finally, the Department is ORDERED to reimburse claimant for any benefits that have already been recouped in the current case.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/06/10

Date Mailed: 10/07/10

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 receipt date of the rehearing decision.

RJC/dj

cc:

