

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010 39669  
Issue No.: 3002/6019  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: July 14, 2010  
MACOMB County DHS (12)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 14, 2010. The claimant appeared and testified. The Department's representatives [REDACTED], FIS appeared and testified on behalf of the Department.

**ISSUE**

1. Whether the Department properly closed the Claimant's FAP case due to Claimant's failure to return verification information requested in a timely manner?
2. Whether the Department properly calculated the Claimant's Child Day Care ("CDC") need hours.

**FINDINGS OF FACT**

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

- 1) The Claimant is a FAP recipient.
- 2) The Claimant applied for CDC benefits on or about February 22, 2010. At the time she applied the Claimant was working evenings and other jobs.
- 3) The Department authorized 30 hours of need biweekly for child day care for the Claimant based upon her husbands need hours effective February 22, 2010. Exhibit 1 and see Hearing Summary.

- 4) The Claimant's husband's school and internship schedule were review by the Department to determine the child day care need hours as his schedule is less than the Claimant's, who works full time.
- 5) At the time of the application, the Claimant's spouse attended school 3 evenings per week, 4 hours a night for a total of 12 hours per week. Exhibit 2. The Claimant's spouse also participated in a MWA approved internship in his field of study, part time, for 35 to 40 hours per week. Exhibit 3. The Claimant's spouse is also entitled to travel a total of 5 hours to day care each week for a total of 57 hours each week for a biweekly total of 104 need hours.
- 6) The Claimant's spouse's internship qualifies as an employment preparation and training activity. BEM 703 page 8.
- 7) The Department mailed a verification checklist to the Claimant on March 13, 2010 and required the proofs of information requested be returned to the Department on March 23, 2010. Exhibit 1
- 8) The verification checklist requested that the claimant provide a child day care provider statement and proof of her self employment income, including recent income tax return, recent business receipts and accounting or other business records to date.
- 9) The claimant did not receive the verification checklist and therefore did not respond to the checklist in a timely manner until after the due date.
- 10) The Department issued a Notice of Case Action dated April 28, 2010 which denied the Claimant's FAP application for failure to provide the requested information.
- 11) The Claimant's FAP application should not have closed as it was not the Claimant's fault that she did not receive the verification checklist.
- 12) On June 9, 2010 the Department received the Claimant's Request for Hearing which protested the Department's closure of the Claimant's FAP case and the hours authorized for her CDC benefits and level of need hours which the Department had authorized at 30 hours.

### **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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

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 (formerly known as the Family Independence Agency) 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 Program Reference Manual (PRM).

### **FAP BENEFITS ANALYSIS**

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

The Department is required to verify income at application and when a change is reported. BEM 554, p. 11.

In this case, the Department mailed out a verification checklist requesting the claimant provides the Department with information to establish her self employment and work hours. The claimant testified credibly that she did not respond to the Department's request for information because she did not receive the verification checklist. Although mail which is properly addressed and mailed is presumed to be received, the claimant had timely responded to the Department's request in the past, and testified credibly that she did not receive the verification and attempted to contact the Department for an eight day period attempting to straighten out the problem. Additionally, the Claimant called when she did not receive benefits as expected. The Claimant provided the Department with the requested information after learning that it was required, and also provided the

MWA approval for her husbands work study and request for income verification. Under these circumstances, the Claimant's FAP case should not have closed.

Under these circumstances because it is found that the claimant did not receive the Verification Checklist the Department should not have closed the Claimant's FAP case. This finding was also influenced by the fact that generally, the claimant was organized and repeatedly attempted to communicate with the Department's to satisfy its requests for information. The undersigned finds that Claimant did not refuse to provide requested information. Furthermore, it was not Claimant's fault that she did not receive the request for verification.

Based upon the foregoing facts and relevant law, it is found that the Department's decision to close Claimant's FAP case is REVERSED for the reason that the Claimant did not receive the verification checklist.

### **CDC BENEFITS ANALYSIS**

The Department erred when it calculated the Claimant's spouse's need hours for determining the hours of Child Day Care benefits they were entitled to receive. BEM 710, page 1 provides that Child Day Care needs calculation is based on a best estimate of the parent/ substitute parents' work or approved activity schedule. The word of the client is accepted unless inconsistent with known facts. Five hours or more per week travel time may be added to the weekly work or approved activity hours. The weekly result is multiplied by two to convert to biweekly valid need hours. In this case it is found the Department underestimated the need hours of the Claimant's spouse. The Claimant's spouse's need hours are used because he has fewer hours of need.

In this case based on the Findings of Fact it is determined that the Claimant should have been receiving 90 need hours biweekly. At the time of the application, the Claimant's spouse attended school 3 evenings per week 4 hours a night for a total of 12 hours per week. The Claimant's spouse also participated in a MWA approved internship in his field of study 35 to 40 hours per week. BEM 703, page 8. The Claimant's spouse is also entitled to travel a total of 5 hours to day care each week. Based upon the foregoing, the Claimant's total need hours are 52 hours each week, which results in a bi weekly total of 104 need hours. Based on the foregoing facts and relevant law it is found that the Department's determination of 30 need hours of CDC benefits was in error and its decision in that regard is hereby REVERSED for the reasons that it is required to include approved activity for MWA and travel time.

The 90 hours of need was determined in accordance with BEM 710 which provides that hours above 75 hours of need require that the maximum 90 hours of need to be granted.

The Claimant is reminded that should either the eligible group's work or activity schedule or school hours change such that work or activity hours are reduced, the Department must be notified of the change within 10 days of the change occurring. BAM 105.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the evidence presented at the hearing did not support the decision of the Department to close the Claimant's FAP case for failure to provide verification, and that the Department's calculation of CDC need hours for the eligible group was in error and therefore its actions must be REVERSED.

Accordingly, it is ORDERED:

1. The Department's decision to close the Claimant's FAP case on April 1, 2010 due to failure to provide verification information is REVERSED.
2. It is further ORDERED that Claimant's FAP case shall be reinstated retroactive to the date of closure, April 1, 2010, and the Department shall issue a supplement to the Claimant for any FAP benefits she was otherwise entitled to receive for the months retroactive to the date of closure.
3. The Department's decision with regard to the Claimant's CDC need hour calculation is REVERSED and the Department is ordered to use a biweekly need hour of 90 hours as set forth in this Decision.
4. The Department is further ordered to supplement the Claimant's CDC benefits retroactive to February 22, 2010 the date of the original application, for CDC benefits the Claimant was otherwise entitled to receive.



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Lynn M. Ferris  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: 07/20/2010

Date Mailed: 07/20/2010

**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 60 days of the filing of the original request.

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

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