

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: 2010-36472
Issue No: 3002, 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 22, 2010
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on June 22, 2010.

ISSUE

Whether the Department properly computed Claimant's Food Assistance Program (FAP) eligibility?

Whether the Department properly determined Claimant's Child Development and Care (CDC) eligibility?

FINDINGS OF FACT

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

1. Claimant was a FAP and CDC recipient.

2. On March 16, 2010, the Department sent Claimant a Redetermination for Medical Assistance (MA), CDC and FAP with an appointment date of April 1, 2010.

(Exhibits 1-2)

3. On or about March 31, 2010, Claimant contacted the Department and rescheduled her Redetermination appointment until April 2, 2010. The Redetermination interview was conducted on this date by telephone.

4. On April 19, 2010, the Department mailed Claimant a Notice of Case Action which explained that Claimant's CDC case would close effective May 9, 2010 because – "We must periodically review your eligibility for assistance. You failed to return the redetermination form mailed or given to you for this purpose and/or to provide required proofs. Therefore, we cannot determine your continued eligibility for assistance." (Exhibit 18)

5. BRIDGES automatically sent out the April 19th Notice of Case Action because the Redetermination interview was not conducted on April 1st despite the fact that it was rescheduled and held on April 2nd.

6. On April 28, 2010, the Department mailed Claimant a Notice of Case Action which explained Claimant's monthly FAP allotment would be \$134.00 effective May 1, 2010. (Exhibit 17)

7. The Department completed a FAP budget based on earned and unearned income from child support which resulted in a monthly FAP allotment of \$134.00.

(Exhibit 12)

8. Claimant received \$0 in child support in February and March 2010 and a total of \$467.00 in April 2010. (Exhibits 13, 15)

9. On April 28, 2010 and May 5, 2010, the Department received the Claimant's hearing requests in regard to her FAP and CDC benefits.

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. Departmental 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).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for remuneration or profit. Unearned income means ALL income that is not earned and includes FIP, RSDI, SSI and

UB. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected.

Prospective budgeting is the best estimate of the client's future income. BEM 505

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15.

BEM 505

In the instant case, Claimant agreed that the Department used the correct earned income figures in completing the FAP Budget, but questioned the unearned income from child support. The Department testified that Claimant did not receive any child support in February or March and received \$467.00 in April 2010 and that BRIDGES should have averaged child support over this 3 month period pursuant to Department policy. The Department also testified that Claimant's CDC case was closed by BRIDGES despite the fact that the Redetermination interview was timely rescheduled and conducted on April 2nd, 17 days before the April 19th Notice of Case Action which closed her CDC case.

With the above said, based on the testimony and documentation offered at hearing, I do not find that the Department established that it acted in accordance with policy in computing Claimant's FAP or CDC eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in computing Claimant's FAP or CDC eligibility.

Accordingly, the Department's FAP and CDC eligibility determinations are REVERSED, it is SO ORDERED. The Department shall:

- 1) Re-process Claimant's FAP benefits retroactive to the redetermination date using the correct amount of unearned income from child support as described by the Department during the hearing.
- 2) Issue Claimant FAP supplemental benefits she is otherwise eligible and entitled to, if any.
- 3) Re-process Claimant's CDC benefits retroactive to the closure date.
- 4) Issue Claimant CDC supplemental benefits she is otherwise eligible and entitled to, if any.
- 5) Notify Claimant in writing of the Department's revised determinations.
- 6) Claimant retains the right to request a hearing(s) if she would like to contest the Department's revised determination.

/S/

Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 12, 2010

Date Mailed: July 13, 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 date of the rehearing decision.

SMB/tg

cc:

