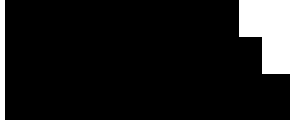


STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2010-47411  
Issue No.: 6019  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: September 8, 2010  
Wayne County DHS (76)

**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 September 8, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), Eileen Kott, FIM appeared and testified.

**ISSUE**

1. Whether DHS properly denied the Claimant's Child Development and Care (CDC) application due to excess income?
2. Whether the Department properly closed the Claimant's Food Assistance case due to excess income?

**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 was an active recipient of Food Assistance (FAP) and Medical Assistance (MA) and also applied for CDC benefits.
2. The claimant applied for CDC on May 17, 2010. At the time of her application the Department reviewed the Claimant's income and also looked at her continued eligibility for FAP benefits and Medical Assistance.
3. The Department Issued a Notice of Case Action on June 9, 2010 which denied the application for CDC benefits because the claimant's gross income was more than the income limit for CDC benefit eligibility. The

Department also closed the Claimant's FAP case and the Claimant and her children were approved for transitional Medicaid. Exhibit 3

4. The Department calculated the Claimant gross income due to her employment to be \$1938 which is the correct amount based on the earnings information utilized by the department and was calculated in accordance with Policy. The Department further calculated child support unearned income to be \$664.46.
5. The earned income plus the unearned income from child support totaled \$2602.46.
6. The gross income limit for CDC benefits is \$1990 and the Claimant's gross income (without including the unemployment compensation benefits the Claimant received in May 2010) exceeded the CDC eligibility limit.
7. The Department properly denied the Claimant's CDC application. Exhibit 1 and Exhibit 2.
8. The Claimant's FAP benefits were closed effective July 1, 2010 because the group's gross income exceeded the limit that one can receive for income and still be eligible to receive FAP benefits.
9. The Department in the Notice of Case Action calculated the Claimant's income to be \$3225 and used the monthly gross income limit for a group of three based on RFT 250 which is \$1984. Exhibit 4 (RFT 250)
10. The Department calculated the Claimant's FAP benefits using a gross income limit for a non-categorically eligible group when making its determination.
11. The Claimant stopped receiving unemployment benefits May 13, 2010.
12. The Claimant received FAP benefits in July of 2010 and did not receive FAP benefits for August and September 2010.
13. The FAP budgets submitted by the Department for August and September and October use a gross income limit of \$3052 when determining whether the Claimant is eligible for FAP instead of the \$1984 gross income limit it used when it issued the Notice of Case Action on June 9, 2010.

14. No finding can be made to determine if the Claimant's group is categorically eligible, or not, as no testimony was offered by the Claimant or the Department with regard to that fact.
15. As a result of this discrepancy, the Department is required to recalculate the FAP budgets for June 2010, when it closed the Claimant's case, August, September and October, 2010 and to utilize the correct gross income limit after it determines whether the Claimant's group is in fact categorically eligible or non categorically eligible.
16. The Department determined that the claimant will be eligible for FAP benefits of \$55.00 in October 2010 based upon an initial analysis that the Claimant's group is categorically eligible, which cannot be established on the basis of the record presented. The Department must recalculate the FAP budget for October 2010 and utilized the correct gross income limit if applicable when analyzing eligibility of the Claimant for FAP. Exhibit 8
17. The claimant confirmed that her shelter expense was \$740.87 for rent/mortgage, \$230 for taxes and \$140 for insurance and did receive the \$555 shelter allowance. The Claimant has a FAP group of 3 persons.
18. The department properly calculated the Claimant's shelter expenses in accordance with Policy.
19. The department calculated that the claimant's child support for the months of June July and August 2010 as averaged to be \$625 and this figure is correct as used in the Budgets for August, September and October, 2010. Exhibit 9
20. At the hearing the Claimant did not dispute the Departments action with regard to the change in her medical benefits, to transitional Medicaid and thus this issue was not considered during the hearing and this Decision will not address that issue.
21. The Claimant requested a hearing on July 30, 2010 which was received August 2, 2010 by the Department protesting the denial of her CDC application and changes to her Food Assistance.

### **CONCLUSIONS OF LAW**

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Department utilized two biweekly checks to determine the Claimant's gross earned income from her employment during April and May in the amount of two biweekly checks of \$891, and \$911.88. To determine gross monthly income the two amounts are added together, divided by two and multiplied by 2.15. BEM 505 pages 6-7. ( $\$891 + \$911.88 = \$1802.88 \div 2 = \$901.44 \times 2.15 = \$1938$ ). The Claimant did not dispute these income figures and thus the Department's determination of earned income is correct and it is found that the department properly utilized this income in the CDC budget it computed. DHS calculated Claimant's gross budgetable income to be \$1938 plus \$664 in child support which sum exceeds the \$1990 limit for CDC. RFT 270, Exhibit 2. The department also included the Claimant's unemployment benefits in the budget but the amount it included cannot be confirmed as correct. The inclusion of unemployment benefits as unearned income does not affect the outcome of the Department's action as the Claimant's earned income and child support well exceed the CDC eligibility limit. The gross income limit for CDC eligibility for a group of three persons is \$1990 Exhibit 2, RFT 270.

A series of FAP budgets were reviewed beginning with August, 2010 through October 2010, Exhibits 6, 7 and 8, and it is found that they must be recalculated as it is unclear from the record presented by the Department whether the Claimant's FAP group is categorically eligible. If the Group is categorically eligible, then the gross income limit is \$3,052 as shown in the budgets it provided, if the group is not categorically eligible, then the gross income limit is \$1984. This decision makes no finding with regard to whether the budgets as submitted are correct as there are no facts available to determine if the Claimant's group is categorically eligible. Based on this analysis, the Department's determination with regard to the FAP determinations, including the closure of the FAP case in July 2010 is set aside and the FAP case must be reinstated and new FAP budgets based on the correct facts must be calculated. The Department did not sustain its burden of proof with regard to its eligibility determinations with regard to the Claimant's FAP benefits.

It is however found that the shelter allowances and the child support as calculated for the August, September and October FAP budgets are correct and should be included in the new budgets. The Department correctly computed the child support unearned income to be \$625 by using the last three months child support received, June, July and August, 2010. Exhibit 9

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Based on the foregoing facts and law it is found that the department properly denied claimant's application for CDC benefits and its decision is AFFIRMED.

Based of the foregoing facts and law it is found that the Department's closure of the Claimant's FAP case is REVERSED.


**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's CDC application due to excess income. Accordingly, the department's actions are AFFIRMED.

The Actions taken by DHS are REVERSED with regard to its closure of the Claimant's FAP case.

Accordingly it is ordered:

The Department is required to reinstate the Claimant's FAP case retroactive to the date of closure and shall recalculate the budgets for June, August, September and October, 2010 utilizing the correct gross income limit when calculating and applying the gross income test. The department shall determine the status of the Claimant's group as either categorically or non-categorically eligible and compute the FAP budgets accordingly.



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

Date Signed: 9/29/2010

Date Mailed: 9/29/2010

**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.

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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.

LMF/jlg

cc:

