

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-30397
Issue No: 3002; 6019

[REDACTED] [REDACTED]
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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 received by the department on [REDACTED]. After due notice, a telephone hearing was held on [REDACTED]. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined that Claimant was not eligible for Child Development and Care (CDC) benefits and properly decreased Claimant's Family Assistance Program (FAP) benefits 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. Claimant was receiving CDC and FAP at all times pertinent to this hearing. (Hearing Summary).
2. The department mailed Claimant a Notice of Case Action on August 13, 2010, informing her that her CDC program was closing effective August 29, 2010, and beginning September 1, 2010, her FAP benefits would decrease. (Department Exhibit 1).
3. Claimant's group size is 3. The monthly net income limit for a group size of 3 for the CDC program is [REDACTED].

4. Claimant submitted a hearing request on August 19, 2010 protesting the closure of her CDC program and decrease in FAP benefits. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 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 (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 (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

For FAP and CDC purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. 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.

Claimant submitted a redetermination application with bi-weekly paystubs showing earned income in the amount of [REDACTED] at the time relevant to this matter. The amounts were added and at that time, Claimant was averaging gross earned income in the amount of [REDACTED] every two weeks. This amount was multiplied by a 2.15 conversion factor in accordance with the applicable department policy resulting in Claimant's group receiving a total monthly income of [REDACTED]. For the FAP program, this amount was reduced by a [REDACTED] earned income deduction of [REDACTED] and a standard deduction of [REDACTED], which left an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income.

A client with a group size of three and a net income of [REDACTED] is entitled to a FAP allotment of [REDACTED], which is the amount of FAP benefits granted to the Claimant for this period. RFT 260.

The CDC income eligibility limit for a group of three is [REDACTED]. RFT 270. Because Claimant's gross monthly income of [REDACTED] was above the eligibility limit of [REDACTED], Claimant was not eligible for CDC benefits.

Claimant credibly testified that she was working a lot of overtime at during that month and that her paychecks also included mileage reimbursement which she argued should not be counted as income. A review of Claimant's paystubs shows she did work overtime and she did receive mileage reimbursement. However, earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. BEM 500. Here, Claimant received compensation in the form of mileage reimbursement from her employer which under departmental policy is counted as earned income. Therefore, the Administrative Law Judge finds the department properly determined Claimant's CDC and FAP eligibility based on the testimony and evidence on the record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP and CDC eligibility.

Accordingly, the department's FAP and CDC eligibility is AFFIRMED.

It is SO ORDERED.

Vicki Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/27/11

Date Mailed: 5/27/11

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 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.

[REDACTED]