

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]
Genesee County DHS-05

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (hereafter referred to as "Claimant") request for a hearing received on July 22, 2011. After due notice, a telephone hearing was held on August 24, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly determined Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) 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 an active recipient of FAP and CDC benefits at all times pertinent to this hearing. (Hearing Summary). Claimant's May, 2011 FAP allotment was \$208.00 and her group size is 2 (two). (Department Exhibit 40).
2. On May 2, 2011, Claimant returned her redetermination packet and indicated that she worked at [REDACTED] with a monthly gross income of [REDACTED] working 56 hours every two weeks. (Department Exhibits 1-4). Claimant included check stubs from [REDACTED]. She also indicated she was attending the [REDACTED] and needed an increase in her child care hours. (Department Exhibits 1-4).
3. On May 6, 2011, Claimant began working at [REDACTED] earning [REDACTED] hour. (Department Exhibits 7-9). From May 6, 2011 through May 14, 2011, Claimant worked 7.5 hours and earned [REDACTED]. (Department Exhibits 7-9).

4. On June 10, 2011, the department mailed Claimant a Verification Checklist (DHS-3503-C) requesting “missing check stubs” due to the department no later than June 20, 2011. (Department Exhibits 10 &11).
5. Then, also on June 10, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) indicating that she was approved for CDC for 75 hours, 95% from “07/03/2011-99/99/9999.” (Department Exhibits 18-21). Claimant’s FAP for “06/01/2011-06/30/2011” was [REDACTED] and FAP for “07/01/2011 – 5/31/2012” was [REDACTED]. (Department Exhibits 18-21). However, the department’s Bridges Benefit Summary Inquiry indicated that Claimant’s FAP received [REDACTED] on June 10, 2011. (Department Exhibit 40).
6. Pursuant to a Bridges Eligibility Summary, Claimant failed the CDC income test for the benefit period of 06/05/2011 – 06/18/2011 based on a total earned income of [REDACTED]. (Department Exhibit 26).
7. Claimant submitted a hearing request on July 22, 2011, challenging the June, 2011 [REDACTED] FAP reduction and because she “received a letter saying my child care benefits were terminated for the month of June.”¹ (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. BAM 600. 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. The department’s 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 (CDC) 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

¹ The record in this matter did not contain any Notice of Case Action (DHS-1605) that indicated Claimant’s CDC would be closed.

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).

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BEM 703. The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

Group composition for CDC is the determination of which persons living together are included in the CDC program group. Program group means those persons living together whose income must be counted in determining eligibility for CDC categories that require an income determination; see BEM 703, Eligibility Groups. Living together means sharing a home except for temporary absences.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. This section specifies who must demonstrate those valid need reasons. There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of (1) Family preservation; (2) High school completion; (3) An approved activity or (4) Employment. BEM 703.

For FAP 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.

For FAP, all income is converted to a standard monthly amount. BEM 505. 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 this case, the department could not explain why Claimant's FAP allotment went from [REDACTED] to [REDACTED] in June, 2011. Nor could the department locate a Notice of Case Action that closed Claimant's CDC benefits. There is no explanation for Claimant's \$16.00 June, 2011 FAP allotment. There is no showing that the department's calculation for Claimant's FAP benefits during this time period was accurate.

With regard to the CDC issue, Claimant alleges that she was sent a letter closing her CDC benefits. However, the record in this matter does not reveal that the Claimant was sent such a letter. To the extent the Claimant's CDC benefits were closed, the department should have, but failed, to provide a DHS-1605 during the hearing. Because the department did not provide this necessary documentation at the hearing, this ALJ cannot determine whether the department followed policy or whether it determined Claimant's eligibility for CDC benefits. The ALJ decision must be based on material and substantial evidence presented during the hearing. However, in this instance the department did not provide such evidence. Under the circumstances, this ALJ cannot properly determine whether the department followed policy with regard to Claimant's CDC eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did not act in accordance with policy in determining Claimant's June, 2011 FAP.

The department's June, 2011 [REDACTED] FAP determination is REVERSED. Accordingly, the department shall provide Claimant with any retroactive FAP benefits she is entitled to receive provided she is otherwise eligible.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in determining Claimant's CDC eligibility. Therefore, the department's determinations are REVERSED and the department is hereby instructed to redetermine Claimant's eligibility for CDC benefits including verification of Claimant's earned and unearned income, and, if applicable, the department shall also issue any retroactive benefits that Claimant is entitled to receive with regard to CDC benefits.

2011-45050/CAP

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/15/11

Date Mailed: 9/15/11

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 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.

CAP/ds

■ [REDACTED]