

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

[REDACTED]

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

ISSUES

Whether the department properly determined Claimant's Food Assistance Program (FAP) benefits and Claimant's Child Care and Development (CDC) eligibility?

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 FAP and CDC at all times pertinent to this hearing.
2. Claimant's group size is 3.
3. On [REDACTED] in response to receiving Claimant's semi-annual contact report and shelter verification, the department ran a consolidated inquiry to determine the amount of child support Claimant had received for the past three months. A new budget was run using the [REDACTED] as the monthly average of child support Claimant received. (Hearing Summary).
4. On [REDACTED] the department mailed Claimant a Notice of Case Action notifying her that as of [REDACTED] the department had approved payment of [REDACTED] of her childcare costs and her FAP benefits had decreased to \$ [REDACTED] a month. (Department Exhibits 3-5).
5. Claimant submitted a hearing request on [REDACTED] protesting the decrease from [REDACTED] in her 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 Bridges Reference Manual (BRM).

All countable earned and unearned gross income available to the client must be considered in determining the client's eligibility for FAP benefits. 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), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The department must count the gross benefit amount before any deductions, unless department policy states otherwise. 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 was receiving monthly earned income in the amount of [REDACTED].00 at the time relevant to this matter. Claimant also received unearned income in the form of child support averaged over the past three months in the amount at [REDACTED]. Therefore, Claimant's group received a total monthly income of [REDACTED], which is reduced by a

standard deduction of [REDACTED] and an earned income deduction of [REDACTED] which leaves an adjusted gross income of [REDACTED]

The department determines a FAP group's net income by deducting certain allowable expenses. These expenses include dependent care expenses, child support expenses and shelter expenses. BEM 554. Respondent had shelter expenses only. An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the [REDACTED] standard heat and utility deduction under the Low Income Home Energy Assistance Program, and deducting half of Claimant's adjusted gross income. Claimant's housing expense was [REDACTED] which is added to the heat and utility standard for a total [REDACTED] shelter amount. [REDACTED] Pursuant to departmental policy, [REDACTED], Claimant's adjusted gross income, must be deducted from her total shelter. [REDACTED]). Since Claimant's total shelter expense of [REDACTED] is more than [REDACTED] of the adjusted gross income of her FAP group, Claimant was entitled to an excess shelter expense of \$458.00, the maximum allowed by policy. RFT 255.

The department was then required to deduct any excess shelter expense from Claimant's adjusted gross income of [REDACTED] resulting in net income of [REDACTED] 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. Based on the evidence and testimony available during the hearing, the department properly established Claimant is receiving the proper amount of FAP benefits.

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).

Claimant receives monthly income in the gross monthly amount of [REDACTED]. The department properly calculated Claimant's unearned income of child support [REDACTED] and [REDACTED] in earned income. The CDC income eligibility limit for a group of three is \$ [REDACTED]. Because Claimant's monthly income of [REDACTED] is below the eligibility limit of [REDACTED] Claimant is eligible for CDC benefits.

The department determines the pay percentage for income eligible cases by the CDC program group size and non-excluded income of all program group members according to the Child Development and Care Income Eligibility Scale. RFT 270. In this case, Claimant has a program group size of 3. A CDC program group of 3 with gross monthly income of \$ [REDACTED] of their childcare to be paid by the department. RFT 270.

Claimant testified that she did not dispute the amount of earned income or child support the department used in determining her FAP and CDC eligibility. However, her child

support decreased beginning in January 2011 and her earned income had decreased beginning [REDACTED] benefits. When asked, Claimant admitted she had not informed the department of the changes in her circumstances and was instructed on the need to do so, at which time the department would be able to recalculate Claimant's FAP and CDC eligibility. The Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department properly determined Claimant's FAP and CDC eligibility based on the semi-annual contact.

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.

/s/

[REDACTED]

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

[REDACTED]