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

IN THE MATTER OF:



Reg. No. Issue No. Case No. Hearing Date:

2012-3251 6019 6021 3015

December 5, 2011 Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the c laimant's request for a hearing. After due notice, a telephone hearing was held on December 5, 2011 fr om Detroit, Michigan. The claimant appeared and testified. On behalf of Departm ent of Human Services (DHS), Manager, appeared and testified.

ISSUES

- 1. The first issue ifs whether DHS proper Iy determined Claimant to have excess income for Food Assistance Program (FAP) benefits effective 8/2011.
- 2. The second issue is whether DHS properly determined Claimant to be incomeeligible for Child Development and Care (CDC) benefits effective 6/28/11.
- 3. The third issue is whet her DHS properly failed to a ccount for study time in determining Claimant's CDC need hours.

FINDINGS OF FACT

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

- 1. Claimant was an ongoing FAP and CDC benefit recipient.
- 2. Claimant has three children, two of which receive Supp lemental Security Income (SSI) benefits and the third rec eiving Re tirement, Survivorship and Disability Insurance (RSDI).

- 3. Claimant's FAP were subject for redetermination beginning 8/2011.
- 4. Claimant's CDC b enefits were redetermined at the same time as the FAP benefits.
- 5. Claimant's gross household income as of the end of 7/2011 was \$2897.
- 6. On 7/22/11, DHS denied a redetermi nation of FAP benefits based on excess income.
- 7. On 8/16/11, DHS denied CDC b enefits for Claimant's child who received RSDI benefits.
- 8. On 7/30/11, Claimant r equested a hearing to dispute the termination of FAP benefits and multiple issues related to CDC.

CONCLUSIONS OF LAW

The controlling DHS regulations are those that were in effect as of 6/2011-10/2011, the months of the DHS decisions which Claim ant is disputing. Current DHS manuals may be found online at the following URL: <u>http://www.mfia.state.mi.us/olmweb/ex/html/</u>.

Food Assistance Benefits

The Food Assistanc e Program (formerly known as the Food Stamp Program) is established by the Food Stam p Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001- 3015. DHS regulat ions are found in the Bridges Administrative Manual (BAM), the Bridges Eligibilit y Manual (BEM) and the Reference Tables Manual (RF T). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS must periodic ally redetermine an indiv idual's eligibility for benefit programs. BAM 210 at 1. A complete redet ermination is r equired at least every 12 months. *Id.* In the present case, DHS redetermined Claimant's FAP benefit eligibility effective 8/2011 and found that Claimant was no longer eligible for FAP benefits due to excess income.

In the present case, Claimant disputed a FAP benefit redetermination which calculated that Claimant had excess inc ome for FA P benefits. BEM 556 outlines t he proper procedures for calculating FAP benefits.

It was not disputed that Claim ant's household received the following income: \$674 in federal SSI benefits for two children, \$14/ month average (from a \$42/three month payment) from State of Michigan SSI, \$412 and \$282 in unspecifie d Social Security Administration benefits for a third child, \$316/two weeks in gross UC benefits and child support totaling \$148.13 for 7/2011.

DHS converts biweekly non-child support income into a 30 day period by multiplying the income by 2.15. BEM 505 at 6. Multiplying Claimant's biweekly UC inc ome by 2.15 results in a countable monthly inc ome of \$679 (dropping cents) for UC ben efits. Adding this amount to the other household income results in a total gross income of \$2897.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 at 1. For gr oups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care and excess shelter (housing and utilities) up to a capped amount and c ourt ordered child support and arrearages paid to non-household members. Fo r groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and the full excess shelter expense.

Verified medical expenses for SDV groups, child support and day care expenses ar e subtracted from Claim ant's monthly countable income. Claimant did not claim to have any of these expenses.

Claimant's FAP benefit group received a standard deduction of \$178. RFT 255. The standard deduction is given to all FAP benefit groups thou gh the amount varies b ased on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculat e the group's adjusted gross income. The adjusted gross income amount is found to be \$2719.

Claimant verified a rental ob ligation of \$608. DHS determined Claimant's FAP benefits based on a slightly reduced amo unt which may affect Claimant's FAP benefit eligibility. DHS gives a flat utility standard to all cl ients. BPB 2 010-008. The utility standard of \$588 (see RFT 255) encompass es all utilities (water, gas, elec tric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. The total shelter obligation is c alculated by adding Cla imant's housing e xpenses to the utility credit (\$588); this amount is found to be \$1196.

DHS only credits FAP benefit groups with w hat DHS calls an "excess shelter" expense. This expense is c alculated by taking Claimant's total shelter obligation and s ubtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$0.

The FAP benefit group's net in come is determined by taking the group's adjusted gross income (\$2719) and s ubtracting the allowable exc ess shelter expense (\$0). The F AP benefit group net inc ome is fo und to be \$2719. A chart list ed in RFT 260 is us ed to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's FAP benefit amount is found to be \$0, the same amount calculated by DHS.

As of 7/22/11, the date DHS redetermined Claimant's FAP benef it eligibility, Claimant's actual 7/2011 child support income would have been the best predictor of Claimant's 8/2011 child support income. Claimant initially contended that she di d not receive child support in 7/2011 and then conc eded that she did. If Claimant's child support has since stopped, Claimant is enc ouraged to reapply as the child support income appears to be the difference between FAP benefit eligibility and ineligibility. However, as of 7/22/11, it is found that DHS properly determined Claimant's FAP benefit eligibility beginning 8/2011 as \$0.

CDC Income Eligibility

The Child Development and Care program is establis hed by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Gr ant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by T itle 45 of the Code of F ederal Regulations, Parts 98 and 99. T he Department of Human Services provides se rvices 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).

Claimant had three children in need of CDC benefits. Two of the children r eceived SSI benefits and should be categorically eligible (i.e. eligible for CDC regardless of income). DHS stated that the two SSI children received CDC benefits since 6/28/11; Claimant contended that the children did not. No finding was made whether the children did or did not receive CDC bene fits since 6/28/11. It is known that the two children receiving SSI should have been eligible since 6/28/11. For purposes of this de cision, DHS will be ordered to verify the children's eligibility.

There is also a disput e about the eligibility of the thir d child. Because the child is not categorically eligible (i.e. does n ot receive SSI benefit s), CDC b enefits may only b e issued if there is income eligibility.

Income for CDC ben efits is calculated ide ntically for CDC as it was for FAP benefits. Thus, Claimant's gross income is \$289 7 for purposes of CDC elig ibility as it was for FAP benefit eligibility.

DHS is to test the program group's count able income against the Child Development and Care Income Eligibility Scale found in RFT 270 page 1. BEM 703 at 13. Department Pay Percent varies depending on program group size and countable income for all program group members. The maximum monthly CDC gross income limit allowed for a five person group is \$2746. RFT 270 at 1. Claimant's gross income exceeds the gross income limit. It is found that DHS properly terminated Claima nt's CDC b enefits of the child not receiving SSI benefits due to excess income by Claimant.

CDC Need Hours

DHS is to determine the valid need hours fo r each parent/substitute parent (P/SP) at application, redetermination, and when a c hange in work or ac tivity hours is reported. BEM 710 at 1. DHS is to calculate the actual need hours considering: time spent in the activity, meal periods during the work day and study and required lab time. *Id*. DHS is then to round the biweekly figur e up to the next whole hour if it includes a fraction and enter the calculated figure into Bridges. Bridges will adjust and authorize to the correct: 30 hours, 50 hours, 75 hours or 80 hours. *Id*.

Effective October 9, 2011, DHS will no longer authoriz e child c are for a parent's travel time. BPB 2011-017. Travel time was allowable immediately prior to 10/9/11 for up to 10 hours in a pay period.

Claimant initially contended that she was entitled to travel time to attend classes. This contention cannot succeed based on new DHS policies.

Claimant then contended that DH S failed to credit her sufficiently for study time. This contention has more merit.

Evidence was established that Claimant attended classes for 11 hours and 50 minute s per week. Claimant contended that she attended more but it is not believ ed that Claimant ever reported or verified to DHS that she attended more hours. Multiplying Claimant's school hours to a biweekly CDC benef it period results in the auth orization of 23 hours and forty minutes. Crediting Claimant for an hour of study time for each hour of class attended results in 47 hour s and 20 minutes per pay period. Rounding this result up to the nearest authorized pa y period amount results in a 50 hour pay period that Claimant should have received.

DHS conceded that Claimant only received cr edit for 30 hours because study time was not factored in the determination. It is found that DHS improperly determined Claimant's hours of need for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, finds that DHS properly terminated FAP benefits due to excess income. It is also found that DHS properly termi nated CDC benefits for a child not receiving SSI benefits due to excess income. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon t he above findings of fact and conclusion s of law, finds that DHS im properly determined Claimant's hours for CDC benefits based on a school need. It is ordered that DHS:

- add CDC benefit eligibility effective 6/28/11 for Claimant's two children receiving SSI benefits; and
- allow Claimant 50 hours/pay period for CDC need hours effective 6/28/11 for any children eligible for CDC benefits.

The actions taken by DHS are PARTIALLY REVERSED.

Christin Dordoch

Christian Gardocki Administrative Law Judge for Maura Corrigan, Director Department of Human Services

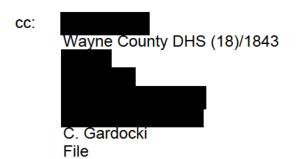
Date Signed: December 16, 2011

Date Mailed: December 16, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party wit hin 30 days of the ma iling date of this Decision and Order. Administrative Hear ings will n ot order a rehearing o r reconsideration on the Department's mo tion where the final decis ion 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 mailing of the Decision and Order or, if a ti mely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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