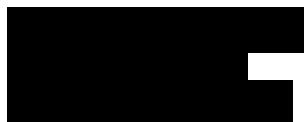


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 2012-3251
Issue No. 6019 6021 3015
Case No. [REDACTED]
Hearing Date: 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 claimant's request for a hearing. After due notice, a telephone hearing was held on December 5, 2011 from Detroit, Michigan. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED] Manager, appeared and testified.

ISSUES

1. The first issue is whether DHS properly 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 income-eligible for Child Development and Care (CDC) benefits effective 6/28/11.
3. The third issue is whether DHS properly failed to account for study time in determining Claimant's CDC need hours.

FINDINGS OF FACT

The Administrative Law Judge, based on the 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 Supplemental Security Income (SSI) benefits and the third receiving Retirement, Survivorship and Disability Insurance (RSDI).

3. Claimant's FAP were subject for redetermination beginning 8/2011.
4. Claimant's CDC benefits 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 redetermination of FAP benefits based on excess income.
7. On 8/16/11, DHS denied CDC benefits for Claimant's child who received RSDI benefits.
8. On 7/30/11, Claimant requested 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 Claimant is disputing. Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

Food Assistance Benefits

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RTM). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

DHS must periodically redetermine an individual's eligibility for benefit programs. BAM 210 at 1. A complete redetermination is required 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 income for FAP benefits. BEM 556 outlines the proper procedures for calculating FAP benefits.

It was not disputed that Claimant'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 unspecified 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 income by 2.15 results in a countable monthly income of \$679 (dropping cents) for UC benefits. 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 groups 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 court ordered child support and arrearages paid to non-household members. For 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 are subtracted from Claimant'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 though the amount varies based on the benefit group size. The standard deduction is also subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$2719.

Claimant verified a rental obligation of \$608. DHS determined Claimant's FAP benefits based on a slightly reduced amount which may affect Claimant's FAP benefit eligibility. DHS gives a flat utility standard to all clients. BPB 2 010-008. The utility standard of \$588 (see RFT 255) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$588 amount. The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit (\$588); this amount is found to be \$1196.

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

The FAP benefit group's net income is determined by taking the group's adjusted gross income (\$2719) and subtracting the allowable excess shelter expense (\$0). The FAP benefit group net income is found to be \$2719. A chart listed in RFT 260 is used 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 benefit 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 did not receive child support in 7/2011 and then conceded that she did. If Claimant's child support has since stopped, Claimant is encouraged 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 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 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).

Claimant had three children in need of CDC benefits. Two of the children received 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 benefits 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 decision, DHS will be ordered to verify the children's eligibility.

There is also a dispute about the eligibility of the third child. Because the child is not categorically eligible (i.e. does not receive SSI benefits), CDC benefits may only be issued if there is income eligibility.

Income for CDC benefits is calculated identically for CDC as it was for FAP benefits. Thus, Claimant's gross income is \$2897 for purposes of CDC eligibility as it was for FAP benefit eligibility.

DHS is to test the program group's countable 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 Claimant's CDC benefits of the child not receiving SSI benefits due to excess income by Claimant.

CDC Need Hours

DHS is to determine the valid need hours for each parent/substitute parent (P/SP) at application, redetermination, and when a change in work or activity 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 figure 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 authorize child care 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 DHS 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 minutes per week. Claimant contended that she attended more but it is not believed that Claimant ever reported or verified to DHS that she attended more hours. Multiplying Claimant's school hours to a biweekly CDC benefit period results in the authorization of 23 hours and forty minutes. Crediting Claimant for an hour of study time for each hour of class attended results in 47 hours and 20 minutes per pay period. Rounding this result up to the nearest authorized pay period amount results in a 50 hour pay period that Claimant should have received.

DHS conceded that Claimant only received credit 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 the above findings of fact and conclusions of law, finds that DHS properly terminated FAP benefits due to excess income. It is also found that DHS properly terminated 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 the above findings of fact and conclusions of law, finds that DHS improperly 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.



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 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 mailing 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.

CG/ctl

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cc:

[REDACTED]

Wayne County DHS (18)/1843

[REDACTED]

C. Gardocki

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