

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-65893
Issue No.: 3002; 6000
Case No.: [REDACTED]
Hearing Date: August 27, 2012
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on August 27, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Is Claimant entitled to an administrative hearing regarding the denial of her child day care provider?

FINDINGS OF FACT

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

1. In June of 2012, Claimant notified the Department that her unemployment and child support would end in July of 2012.
2. A Consolidated Inquiry Unemployment Compensation Search of July 5, 2012, showed that Claimant would receive one more week of benefits. (Exhibit 6)
3. A Child Support Search indicated that Claimant did not receive July child support payments. (Exhibit 7)
4. The Department did not change Claimant's FAP benefits based on this information.

5. On July 2, 2012, Claimant filed a hearing request, protesting the amount of benefits.
6. On June 6, 2012, Claimant's choice of proposed child day care provider was denied.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015

The CDC program was 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.

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

BEM 550 instructs that eighty percent of the earned income of a household be added to unearned income to determine gross income. Monthly net income for FAP purposes is then determined by subtracting allowable expenses, such as a shelter deduction, if any. BEM 554.

BEM 505, at pp 8, 9, instructs:

FAP

Income decreases that result in a benefit increase must be effective no later than the first allotment issued 10 days after the date the change was reported, provided necessary verification was returned by the due date. Do **not** process a change for a month earlier than the month the change occurred. A supplement may be necessary in some cases.

In the present case, the Department did not dispute that Claimant informed the Department in June that her unemployment benefits and child support would end in July of 2012. The Consolidated Inquiry of July 5, 2012 confirmed that Claimant's unemployment benefits would end in July of 2012. (Exhibit 6) A Child Support Search indicated that Claimant had not received child support in July. (Exhibit 7) The Department had not processed the change as of the date of hearing, August 27, 2012. Since the Department was aware of the change of income as of July, 2012, it should have recalculated Claimant's benefits July 1, 2012 and ongoing.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly calculated Claimant's FAP benefits improperly calculated Claimant's FAP benefits.

Claimant also requested a hearing because her choice of child day care (CDC) provider was denied. However, per BEM 704, p. 15, "Neither child care providers nor CDC recipients are entitled to administrative hearings based on provider/applicant denial or closure."

Based on the above policy, Claimant's request for hearing regarding the provider denial is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

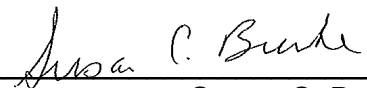
did act properly. did not act properly with regard to FAP.

Accordingly, the Department's FAP calculation decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate recalculation of Claimant's FAP benefits, July 1, 2012 and ongoing.
2. Issue FAP supplements July 1, 2012 and ongoing for any missed or increased payments, in accordance with Department policy.

IT IS FURTHER ORDERED that Claimant's request for hearing regarding the CDC provider denial is DISMISSED pursuant to BEM 704.



Susan C. Burke
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 4, 2012

Date Mailed: September 4, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SCB/cl

cc: [REDACTED]
Wayne County DHS (57)/DHS-1843

[REDACTED]
[REDACTED] d
S. Burke