

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201270702
Issue No.: 1017, 6019
Case No.: [REDACTED]
Hearing Date: March 14, 2013
County: Wayne DHS (76)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 14, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits.

The second issue is whether DHS properly denied Claimant's application for Child Development and Care (CDC) benefits.

FINDINGS OF FACT

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

1. On 6/8/12, Claimant applied for CDC and FIP benefits.
2. Claimant was part of a five person household, which included her spouse and three children.
3. Claimant's spouse had monthly income of \$1668.
4. Claimant applied for CDC benefits so that she could attend beauty school.

5. On 7/23/12, DHS denied Claimant's application for FIP benefits due to excess income.
6. On 7/23/12, DHS denied Claimant's application for CDC benefits due to a failure to have a CDC need.
7. On 8/8/12, Claimant requested a hearing to dispute the denial of FIP and CDC benefits.

CONCLUSIONS OF LAW

Temporary Assistance to Needy Families (TANF), called the Family Independence Program (FIP) in Michigan, is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a denial of FIP benefits. The denial was based on excess household income for Claimant.

It was not disputed that Claimant lived with her employed spouse at the time she applied for FIP benefits. Claimant alleged that DHS should not have factored her spouse's income because her spouse did not share his income. Claimant supported her allegation with anecdotes of domestic violence.

When cash assistance is requested for a dependent child, the child's parents who live with the child are in the FIP benefit group. BEM 210 (10/2011), p. 4. This policy has no exceptions for domestic violence. Accordingly, DHS properly counted Claimant's spouse as a FIP benefit group member. By including the spouse as a group member, Claimant's spouse's income is also factored.

DHS budgeted a monthly income of \$1668 for Claimant's spouse. DHS testified that pay stubs were used to determine the monthly income, however, the stubs were unavailable. DHS also presented testimony that Claimant's spouse made \$9.40/hour and worked at least 40 hours per week, but usually more. Claimant possessed neither evidence nor knowledge of her spouse's income.

DHS converts weekly non-child support income into a 30 day period by multiplying the income by 4.3. *Id.* BEM 505 (10/2010), p. 6. Accepting the DHS testimony of Claimant's hourly wage and hours as accurate would create a monthly income of \$1616. This

amount is close enough to the budgeted income of \$1668 to be deemed accurate, at least when combined with DHS testimony that Claimant's spouse's pay stubs, if available, would have verified more than 40 hours per week in income.

FIP income budget policy is found in BEM 518. DHS is to disregard \$200 and 20% of the remaining earnings from employment income. This creates a net earned income of \$1175.

DHS is to subtract any child support payments from the net income. It was not disputed that Claimant's spouse paid \$389.88 in monthly child support. Subtracting the child support payments from the net income creates a countable income of \$785.

FIP benefit eligibility is approved if there is a minimum of a \$10 deficit after subtracting the payment standard from the countable income. The payment standard for a five-person FIP benefit group is \$694. Claimant's FIP payment standard is more than \$10 less than her countable household income. Accordingly, DHS properly denied Claimant's FIP benefit eligibility due to excess income.

The Child Development and Care (CDC) program was established by authority of the Social Security Act and the Child Care and Development Block Grant Act. The Department of Education (MDE) administers the program and sets rates and eligibility criteria. The Department of Health and Human Services (HHS) administers the program on the federal level. The Department of Human Services (DHS) is responsible for eligibility determination for the CDC program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a CDC application denial. DHS denied the application due to a failure by Claimant to establish a need for CDC. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. *Id.*

There are four valid CDC need reasons. BEM 703 (4/2012), p. 3. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: family preservation, high school completion, an approved activity or employment. *Id.* It was not disputed that Claimant's need was for her to return to beauty school, which would require DHS approval.

Child care payments may be approved under this need reason when a client needs child care to participate in an employment preparation and/ or training activity or a post-secondary education program. *Id.*, p. 4. The activity or education program can be approved by DHS or a one-stop service center. *Id.*

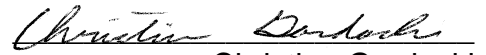
It was not disputed that Claimant was not attending school at the time that she applied for CDC benefits. Claimant testified that she previously attended beauty school and had to return by 8/2012 in order to preserve the hours she previously earned during beauty

school training. Claimant also testified that she advised her specialist of this information. Claimant's DHS specialist testified that Claimant called and stated that she was unable to immediately return to beauty school but hoped to return in 8/2012. The specialist stated that Claimant's need for CDC was too vague and/or too far in the future to be approved as a valid need.

Each party testified credibly, however, one side had to be mistaken in their memory. Claimant's failure to reapply for CDC benefits following the application denial and her concession that she did not make no serious attempts to return to beauty school is enough evidence to determine that it is slightly more likely, than not, that DHS properly denied Claimant's application for a failure to establish an immediate need for CDC. Accordingly, the CDC application denial is found to be proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FIP and CDC application dated 6/8/12. The actions taken by DHS are AFFIRMED.


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

Date Signed: 3/21/2013

Date Mailed: 3/21/2013

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

CG/hw

cc:

