

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-24876
Issue No.: 3002, 6019
Case No.: [REDACTED]
Hearing Date: February 14, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, February 28, 2013. The Claimant appeared, along with [REDACTED], and testified. Participating on behalf of Department of Human Services ("Department") was [REDACTED].

ISSUES

Whether the Department processed the Claimant's semi-annual review?

Whether the Department properly terminated the Claimant's FAP and CDC benefits?

Whether the Department properly calculated the Claimant's FAP benefits based on the January 2013 application?

Whether the Department properly denied the Claimant's January 7, 2013 Child Development and Care ("CDC") due to excess income?

FINDINGS OF FACT

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

1. The Claimant was an ongoing FAP and CDC recipient.
2. In November 2012, the Claimant submitted her semi-annual report.

3. The Claimant's group size is 3.
4. The Claimant pays \$34.00 for her shelter and is responsible for utilities.
5. The Claimant notified the Department of her employment.
6. The Claimant's FAP and CDC benefits terminated effective January 1, 2013.
7. On January 7, 2013, the Claimant submitted an application for FAP and CDC benefits.
8. As a result of the income, the Department found the Claimant eligible for \$69.00/month in FAP benefits effective February 1, 2013.
9. The Department found the Claimant ineligible for CDC benefits due to excess income.
10. On or about January 11, 2013, the Department sent a Notice of Case Action to the Claimant informing her of the \$69.00 FAP benefit approval and the denial of CDC benefits.
11. On January 17, 2013, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

The Claimant requested a hearing regarding the reduction of FAP benefits and the termination of CDC benefits. Each program will be separately addressed.

FAP Reduction

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

The Food Assistance Program ("FAP"), 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"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through 400.3015.

For FAP cases assigned a 12-month benefit period, the Department sends out a DHS-1046, Semi-Annual Contact Report which must be completed by the client, the client's authorized representative, or by the specialist (during a telephone call, home call, or interview with the client). BAM 210 (November 2012), p. 7. A Report is considered

complete when all the sections are completed and the required verifications are returned. BAM 210, p. 7. If the client fails to return a completed DHS-1046 by the last day of the six month, Bridges will automatically close the case. BAM 210, p. 9. If the DHS-1046 is not logged in by the 10th day of the sixth month, a DHS-1046A (Potential Food Assistance Closure) is generated which serves to remind the client that the DHS - 1046 and all required verifications must be submitted by the last day of the month or the case will close. BAM 210, p. 9.

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (November 2012), pp. 1, 2. All income is converted to a monthly amount. BEM 505 (October 2010), p. 1. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 1. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505, p. 6. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505, p. 6.

Shelter expense is an allowable expense and includes rent payments. BEM 554 (October 2012), p. 10. In determining a FAP allotment, a Heat and Utility Standard is used whenever a FAP group contributes to the heat expense separate from rent, mortgage, or condominium/maintenance payments. BEM 554, p. 11.

In this case, the Claimant timely submitted a semi-annual report in November 2012. Despite this submission, it appears the case was not certified resulting in the FAP closure effective January 1, 2013. In response, the Claimant submitted a new application and filed for a request for hearing.

The Department determined the Claimant's monthly gross earnings of \$2,089.00 based on three paystubs submitted by the Claimant. The Claimant also provided a letter from the employer to show that one of the submitted paystubs covered hours worked in November and December while another paystub was a \$300.00 bonus for December. Other documentation showed that the Claimant worked 40 hours a week earning \$8.00/hour. During the hearing, the Department was unable to explain how it reached monthly gross earnings of \$2,089.00. Further, in review of the FAP budget, the Claimant's shelter and utilities were not included when determining FAP eligibility as there was not an "excess shelter" deduction. In light of the foregoing, it is found that the Department failed to establish it acted in accordance with Department policy when it terminated the Claimant's FAP case based on the semi-annual review. It is further found that the subsequent FAP calculation associated with the January 2013 application is not correct.

CDC Termination

The Child Development and Care ("CDC") 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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through 400.5015. Department policies are contained in the BAM, BEM, and RFT.

The Child Development and Care program is established by Chapter 7 of the Social Security Act, 42 USC 1397, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services, formerly known as the Family Independence Agency, provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

The goal of CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified families. BEM 703 (October 2012), p. 1. For income eligible CDC determination, the income of all program group members is considered. BEM 525 (January 2011), p. 1. The gross (before deductions) income is used to determine the percentage of care that the Department will pay towards the group's child care costs. BEM 525, p. 1. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. BEM 500 (November 2012), p. 2. A group's monthly benefits are based in part, on a prospective income determination. BEM 505 (October 2010), p. 1. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 1, 6. Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. BEM 505, p. 6. Bi-weekly amounts are converted by multiplying the amount by 2.15. BEM 505, p. 6. The Department will not contribute to child care when the gross monthly income for a group size of 3 is over \$1,990.00. RFT 270 (October 2011), p. 1.

In this case, the Claimant timely submitted a semi-annual report in November 2012. Despite this submission, it appears the case was not certified resulting in the termination of CDC benefits. In response, the Claimant submitted a new application and filed for a request for hearing.

In processing the January 7, 2013 CDC application, the Department determined the Claimant's monthly gross earnings were \$2,275.00 for purposes of determining CDC eligibility. As detailed in the CDC discussion, the Department was unable to articulate how this amount was derived. Ultimately, the Department failed to establish it acted in accordance with Department policy when it terminated the Claimant's CDC benefits. It is further found that the denial of CDC benefits based on the January 7, 2013 application is not upheld.

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's termination of FAP and CDC benefits as it relates to the semi-annual review is not upheld. It is further found that the Department's FAP calculation and CDC denial arising from the January 7, 2013 application are not upheld.

Accordingly, it is ORDERED:

1. The Department's termination of FAP and CDC benefits is REVERSED.
2. The Department shall reinstate FAP benefits and initiate supplementation of FAP benefits effective January 1, 2013 in accordance with department policy.
3. The Department shall reinstate the Claimant's CDC benefits from the date of closure and initiate supplementation of CDC benefits in accordance with Department policy.
4. The Department shall initiate and subsequently complete the FAP and CDC semi-annual review (if not previously done so) in accordance with department policy and notify the Claimant of the determination in accordance with department policy.
5. The Department shall determine the Claimant's correct monthly income and include the Claimant's shelter obligation and utility standard when determining FAP eligibility in accordance with department policy.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 4, 2013

Date Mailed: March 4, 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

CMM/tm

cc:

