

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

IN THE MATTER OF:



Reg. No.: 201325177
Issue No.: 3015; 6019
Case No.: [REDACTED]
Hearing Date: March 4, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly reduce Claimant's monthly Food Assistance Program (FAP) benefits and close Claimant's Child Development and Care (CDC) case?

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 applied for benefits for: received benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> Adult Medical Assistance (AMP). |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Medical Assistance (MA). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |

2. In connection with Claimant's December 2012 redetermination, the Department recalculated Claimant's FAP and CDC budgets.
3. On an unverified date, the Department notified Claimant that her CDC case for her son Drake closed on December 15, 2012.
4. On January 14, 2013, the Department notified Claimant that her monthly FAP benefits were \$182, effective January 1, 2013.
5. On January 23, 2013, Claimant filed a hearing request, protesting the Department's reduction of her FAP benefits and closure of her CDC case.

CONCLUSIONS OF LAW

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

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AAC, Rule 400.3151 through Rule 400.3180.

☒ 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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, in connection with a FAP and CDC redetermination, the Department recalculated Claimant's FAP and CDC budgets and decreased Claimant's monthly FAP benefits to \$182 effective January 1, 2013, and closed her CDC case for her son Drake effective December 15, 2012. The only issue presented at the hearing was the Department's calculation of Claimant's gross monthly income. The Department's evidence showed that the Department concluded that Claimant had gross monthly earned income of \$1742 and gross monthly child support income of \$370.

Earned Income Calculation

In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 1, 2010), p 2. In prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal expected pay amounts. BEM 505, p 4. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, p 5. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p 2.

In this case, the Department testified that in calculating Claimant's gross monthly earned income, it considered the following employment income: (1) \$729 paid on November 2, 2012 for 72.9 hours; (2) \$775.50 paid on November 16, 2012 for 77.1 hours; and (3) \$927 paid on November 30, 2012 for 92.7 hours. At the hearing, Claimant showed that the November 30, 2012, pay included 16 hours of holiday pay and 14 hours of vacation pay, income she did not receive on a regular basis. Thus, the Department did not act in accordance with Department policy when it failed to discard the November 30, 2012, pay in calculating Claimant's earned income. Further, because there were variations in Claimant's weekly worked hours in September 2012, October 2012, and November 2012, the Department did not act in accordance with Department policy when it failed to consider more than 30 days' income in calculating Claimant's gross monthly earned income.

Child Support

In this case, the Department testified that it determined that Claimant received \$370 in monthly child support based on \$169.33 in monthly direct child support and \$16 in monthly certified medical child support paid on behalf of each of Claimant's two children. The total amount of court-ordered direct support (which is support an

individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. BEM 503 (November 1, 2012), pp 5, 7; BEM 556 (July 1, 2011), p 2. However, certified support, which is court-ordered support that MiSDU sends to the Department due to a child's receipt of assistance, is *excluded* from the calculation of unearned income for both CDC and FAP budgets. BEM 503, pp 5-6. Because the \$32 in total certified medical child support should not have been included in the calculation of Claimant's child support income, the Department did not act in accordance with Department policy when it calculated Claimant's gross unearned income for purposes of determining her monthly FAP allotment and CDC eligibility.

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 did not properly calculate Claimant's gross monthly income for purposes of determining her FAP benefits and CDC eligibility in accordance with Department policy.

DECISION AND ORDER

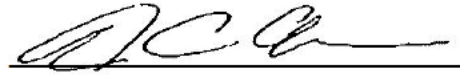
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly did not act properly.

Accordingly, for the reasons stated above and on the record, the Department's AMP
 FIP FAP MA SDA CDC decision is AFFIRMED REVERSED.

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

1. Reinstate Claimant's CDC case effective December 15, 2012;
2. Begin recalculating Claimant's FAP budget for January 2013, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
3. Begin recalculating Claimant's CDC income eligibility for December 15, 2012, ongoing, in accordance with Department policy and consistent with this Hearing Decision;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2013, ongoing;
5. Issue supplements to Claimant's provider, in accordance with Department policy, for any CDC benefits the provider was eligible to receive but did not from December 15, 2012, ongoing; and

6. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/8/2013

Date Mailed: 3/8/2013

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

ACE/hw

cc:

