

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████203

Reg. No.: 2013-41618
Issue No.: 3015;6019
Case No.: ██████████
Hearing Date: June 19, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 on June 19, 2013 from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Eligibility Specialist, and ██████████ Program Manager.

ISSUE

Due to excess income, did the Department properly close Claimant's Food Assistance Program (FAP) and Child Development Care (CDC) cases?

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 recipient of FAP and CDC benefits.
2. Claimant's benefits for FAP and CDC were recalculated in connection with a redetermination.
3. On March 29, 2013, the Department sent Claimant a Notice of Case Action informing her that effective May 1, 2013, her FAP case would close due to excess income. (Exhibit 6).
4. On April 9, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

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

FAP

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 Mich. Admin Code. Rule 400.3001 through Rule 400.3015.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. 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 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. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received biweekly is converted to a standard amount by multiplying the average of two biweekly paychecks by the 2.15 multiplier. BEM 505, pp. 6-7.

In this case, in connection with a CDC redetermination, Claimant's benefits for CDC and FAP were recalculated. The Department determined that Claimant's income exceeded the limit and that she was no longer eligible for CDC and FAP benefits. At the hearing, the budget from the FAP EDG Net Income Results for the May 2013 benefit period was reviewed. (Exhibit 4). The Department concluded that Claimant had earned income of \$2,764.00. The Department testified that in calculating Claimant's monthly earned income, it considered 30 days of income using the following: (1) \$1,293.51 paid on February 1, 2013; and (2) \$1,278.23 paid on February 15, 2013. (Exhibit 3). The Department multiplied the average of paystubs by the 2.15 standard multiplier, as Claimant gets paid bi-weekly. The Department properly applied the 20% earned income deduction to Claimant's total earned income. BEM 550 (February 2012), p. 1.

The FAP budget shows that the Department properly applied the \$148.00 standard deduction applicable to Claimant's confirmed group size of three and the excess shelter deduction presented by the Department establishes that the \$575.00 standard heat and

utility deduction available to all FAP recipients was properly applied. Claimant also confirmed that her housing costs were \$391.00 (Exhibit 4); RFT 255 (October 2012), p 1; BEM 554, pp. 11-12.

A further review of the evidence establishes that the Department properly determined that Claimant was no longer eligible to receive FAP benefits because her net income was \$2,063.00, which exceeded the limit. (Exhibit 4). For FAP purposes, the applicable FAP net income limit for Claimant's confirmed group size of three is \$1,591.00. RFT 250 (October 2012), p. 1. Therefore, the Department acted in accordance with Department policy when it closed Claimant's FAP case effective May 1, 2013 due to excess income. Accordingly, the Department's FAP decision is AFFIRMED.

CDC

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 1997 AACRS R 400.5001-5015.

In this case, Claimant requested a hearing to dispute the closure of her CDC case due to excess income and to address a lapse in CDC benefits that she stated she was eligible to receive, but did not. Claimant also raised concerns with respect to not receiving notice of her case closure.

The Department presented a CDC Income Eligibility budget for the benefit period of May 5, 2013 in support of its determination that Claimant's income exceeded the limit. (Exhibit 7). As discussed above, the Department properly calculated Claimant's earned income to be \$2,764.00. (Exhibit 7). The monthly CDC income eligibility limit for Claimant's group size of three is \$1,990.00. RFT 270 (October 2011), p. 1. Although Claimant's income did exceed the limit for the period calculated, it remained unclear throughout the hearing when Claimant's eligibility for CDC benefits actually ended. At the hearing, the Department initially testified that Claimant's CDC case closed effective April 7, 2013 due to excess income. An eligibility summary was presented which supports the Department's testimony that Claimant was approved for CDC benefits through April 6, 2013. (Exhibit 5).

However, Claimant testified that there was a lapse in her CDC benefits from March 10, 2013 through April 6, 2013 and that her CDC provider was not paid during that period, despite what the eligibility summary states. The Department later testified that Claimant was only approved for benefits through March 9, 2013 and that on March 29, 2013, it sent Claimant's CDC provider a Notice of Authorization authorizing benefits only through March 9, 2013. (Exhibit 8). In addition, the Notice of Case Action sent to Claimant on March 29, 2013 has further conflicting information and states that Claimant's eligibility for CDC ended on January 26, 2013. (Exhibit 6). The Department

did not present another Notice of Case Action that informs Claimant of her CDC case closure effective in either March or April 2013 and could not identify if proper notice was sent to Claimant as required under BAM 220 (November 2012). Because of the conflicting evidence presented, the Department did not satisfy its burden in establishing that it acted in accordance with Department policy when it processed Claimant's CDC case. Therefore, the Department's CDC decision is REVERSED.

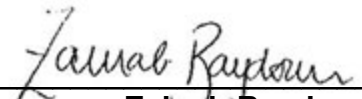
DECISION AND ORDER

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 acted in accordance with Department policy when it closed Claimant's FAP case due to excess income. Accordingly, the Department's decision with respect to FAP is AFFIRMED.

It is further found that the Department did not act in accordance with Department policy when it processed Claimant's CDC case. Accordingly, the Department's CDC decision is REVERSED.

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

1. Activate Claimant's CDC coverage for the period March 9, 2013 through April 6, 2013; and
2. Begin issuing supplements to Claimant's Child Care Provider for any CDC benefits that she was entitled to receive but did not from March 9, 2013 through April 6, 2013 if otherwise eligible and qualified.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 25, 2013

Date Mailed: June 25, 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 affect the substantial rights of the claimant:
 - 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

ZB/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]