

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201338869
Issue No.: 3002, 6019
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County DHS: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED] from [REDACTED]. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility?

FINDINGS OF FACT

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

1. The Claimant is an ongoing Food Assistance Program (FAP) recipient.
2. The Claimant was an ongoing Child Development and Care (CDC) recipient until [REDACTED].
3. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED].
4. The Claimant receives monthly child support in the gross monthly amount of \$ [REDACTED].

5. The Claimant receives monthly gaming revenue in the gross monthly amount of \$ [REDACTED]
6. The Claimant has a monthly shelter expense of \$ [REDACTED]
7. On [REDACTED], the Department notified the Claimant that her Food Assistance Program (FAP) benefits would be reduced to \$ [REDACTED] per month, and that she would not be eligible for Child Development and Care (CDC) benefits after [REDACTED], due to excess income.
8. The Department received the Claimant's request for a hearing on [REDACTED] protesting the reduction of her Food Assistance Program (FAP) benefits and closure of her Child Development and Care (CDC) benefits.

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, R 400.3001 through Rule 400.3015.

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, R 400.5001 through Rule 400.5015.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. Department of Human Services Bridges Eligibility Manual (BEM) 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

In this case, the Claimant is an ongoing Food Assistance Program (FAP) recipient as a group of three. The Claimant was an ongoing Child Development and Care (CDC) recipient until [REDACTED] when her benefits were closed due to excess income.

The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]. This was determined by taking the average gross earnings from the Claimant's weekly paychecks for a 30 day period in the amount of \$ [REDACTED], \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] and multiplying the average by the conversion factor of 4.3.

The Claimant receives monthly gaming revenue in the gross monthly amount of \$ [REDACTED]. This was determined by taking the gross amount of the bi-annual payment received by the Claimant in the gross amount of \$ [REDACTED] and dividing this amount by 6.

The Claimant receives monthly child support in the gross monthly amount of \$ [REDACTED]. This was determined by taking the average of actual child support payments received over a three month period as directed by Bridges Eligibility Manual Item 505. In this case, Department records show that the Claimant received child support payments of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED] during the previous three months.

The Claimant has a monthly shelter expense of \$ [REDACTED].

The Claimant has an adjusted gross income of \$ [REDACTED]. This was determined by reducing her earned income by the 20% earned income deduction, and the \$ [REDACTED] standard deduction from the total sum of all her monthly countable income.

The Claimant is credited with monthly shelter expenses in the amount of \$ [REDACTED] which is determined by adding her monthly shelter expense of \$ [REDACTED] to the heat and utility standard expense of \$ [REDACTED]. The Claimant does not receive the benefit of an excess shelter deduction because her total shelter expense is less than 50% of her adjusted gross income as directed by Department of Human Services Bridges Eligibility Manual (BEM) 556.

Therefore, the Claimant's net countable income of \$ [REDACTED] is equal to her adjusted gross income.

A Food Assistance Program (FAP) recipient with a group size of three, and a net income of \$ [REDACTED] is entitled to a monthly Food Assistance Program (FAP) allotment of \$ [REDACTED]. Department of Human Services Reference Table Manual (RFT) 260 (December 1, 2012), p 15.

Based on the evidence and testimony available during the hearing, the Department has established that it properly determined the Claimant's Food Assistance Program (FAP) eligibility.

The Department failed to present testimony or documentation showing income countable towards the eligibility determination for the Child Development and Care (CDC) program. The Department failed to offer written budgets explaining how the Claimant is not eligible for this program, and failed to present testimony explaining the reasons that Child Development and Care (CDC) benefits were terminated. Therefore, the Department has failed to present sufficient evidence to establish that the Claimant is not eligible for the Child Development and Care (CDC) program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's Food Assistance Program (FAP) eligibility.

The Department's Food Assistance Program (FAP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

The Department has failed to establish that it acted in accordance with policy in determining the Claimant's Child Development and Care (CDC) eligibility.

The Department's Child Development and Care (CDC) eligibility determination is **REVERSED**.

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

1. Initiate a determination of the Claimant's eligibility for the Child Development and Care (CDC) as of [REDACTED]
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/ _____
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 04/30/2013

Date Mailed: 04/30/2013

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

KS/kl

cc:

