

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51790
Issue Nos.: 2026, 3002, 6019
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Macomb (50-20)

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 July 3, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly deny Claimant's Child Development and Care (CDC) application?
2. Did the Department properly provide Claimant with Medical Assistance (MA) coverage with a monthly \$82 deductible?
3. Did the Department properly reduce Claimant's Food Assistance Program (FAP) 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. Claimant was an ongoing recipient of FAP and MA benefits.
2. On an unknown date, the Department notified Claimant that effective June 1, 2013, her monthly FAP benefits would be reduced to \$148 and her MA coverage would be subject to an \$82 monthly deductible.
3. In May 2013, Claimant filed a CDC application.

4. On June 5, 2013, the Department sent Claimant a Notice of Case Action denying her CDC application due to excess income.
5. On June 10, 2013, Claimant filed a request for hearing disputing the Department's actions concerning her MA and FAP cases and her CDC application.

CONCLUSIONS OF LAW

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

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, R 400.3001 through R 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 of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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, R 400.5001 through R 400.5015.

Claimant requested a hearing concerning her MA case, FAP benefits and denial of CDC benefits.

MA Case

The Department testified that Claimant was eligible for Group 2 Caretaker (G2C) MA coverage subject to a monthly \$82 deductible. The Department presented a G2-FIP related MA budget showing the calculation of the deductible. However, the Department could not identify the income used as Claimant's total net income for MA purposes. The calculation of Claimant's deductible could not be verified without this information. See BEM 536 (January 2010), pp. 4-5; BEM 544 (August 2008), p. 1; BEM 545 (July 2011), p. 9. Furthermore, the Department did not identify the MA coverage Claimant was receiving prior to June 1, 2013, and the reasons this coverage, if different than G2C, was closed. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant's MA eligibility and the deductible amount.

FAP Case

The evidence showed that Claimant's FAP benefits decreased to \$148 effective June 1, 2013. The Department did not present a copy of the Notice of Case Action showing this decrease or a FAP net income budget showing the calculation of Claimant's monthly FAP benefits for June 1, 2013, ongoing. After the hearing, the Department provided a June 25, 2013, Notice of Case Action showing that Claimant's FAP benefits were increasing to \$229 effective August 1, 2013, and a budget for August 1, 2013, ongoing. This Notice and budget do not address the decrease in FAP benefits to \$148 that resulted in Claimant's hearing request. Thus, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it reduced Claimant's FAP benefits effective June 1, 2013.

CDC Application

In a June 5, 2013, Notice of Case Action, the Department denied Claimant's CDC application on the basis that Claimant did not have a need for services and her gross income exceeded the applicable gross income limit. At the hearing, the Department clarified that Claimant's application was denied solely because her gross income exceeded the gross income limit. A CDC group with two members, which is Claimant's CDC group size, with gross monthly income in excess of \$1,607 is not eligible for CDC benefits. RFT 270 (October 2011), p. 1; BEM 703 (July 1, 2013), p. 13; BEM 205 (December 2011), p. 1.

The Department provided a copy of the CDC income eligibility budget showing the calculation of Claimant's gross income for CDC eligibility purposes. The budget showed unearned income totaling \$801.48, consisting of \$382 in child support income and \$419.48 from Claimant's son's Supplemental Security Income (SSI) benefits. The Department includes the gross amount of current SSI as unearned income. BEM 503 (May 2013), p. 24. While Claimant testified that her son's SSI income fluctuated based on her income, she presented no evidence to dispute the Department's use of \$419.48 in calculating her CDC eligibility. Claimant also testified that she received \$88.64 weekly in child support income. When this weekly income is multiplied by 4.3 to determine the standard monthly amount, in accordance with Department policy, Claimant's child support income is \$381.15. When this amount is added to Claimant's SSI income, the total unearned income received by the household is \$800.63, almost \$1 less than the amount determined by the Department.

The budget also showed earned income of \$807. The Department testified that this figure was based on the paystubs provided by Claimant showing biweekly pay as follows: \$549.45 for the period end date of April 28, 2013; \$447.70 for the period end date of May 12, 2013; and \$566.10 for the period end date of May 26, 2013. While Claimant testified that her pay fluctuated based on the number of hours she worked, she agreed that she generally worked between 60 and 70 hours, as reflected in the paystubs provided. Thus, the Department could properly rely on the paystubs provided to calculate Claimant's CDC income eligibility. BEM 505 (October 2010), pp. 4-5. Based on this pay information, however, it is unclear how the Department calculated

Claimant's gross monthly earned income as \$807. The calculation of Claimant's gross monthly income in accordance with Department policy based on the three paystubs identified shows that Claimant's gross monthly earned income is \$1,120, well in excess of \$807. See BEM 505, pp. 4-5. Although the Department miscalculated Claimant's income, because the sum of Claimant's properly calculated earned and unearned income results in an amount over \$1,607, the Department's error in calculating Claimant's gross monthly income is harmless. Thus, the Department properly denied Claimant's CDC application on the basis of excess income.

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 (i) failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's MA eligibility and reduced her FAP benefits and (ii) acted in accordance with Department policy when it denied her CDC application.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the denial of Claimant's CDC application and **REVERSED IN PART** with respect to the calculation of Claimant's MA eligibility and deductible and reduction of Claimant's FAP benefits.

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

1. Begin processing Claimant's FAP and MA budgets for June 1, 2013, ongoing in accordance with Department policy;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from June 1, 2013, ongoing;
3. Provide Claimant with any MA coverage she is eligible to receive from June 1, 2013, ongoing; and
4. 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: July 9, 2013

Date Mailed: July 10, 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/pf

cc:

