

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-58677
Issue No.: 3015; 6043
Case No.: ██████████
Hearing Date: August 15, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's ██████████ ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's Child Development and Care (CDC) application effective June 30, 2013, ongoing, due to gross income exceeding the limits?

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective July 10, 2013, ongoing, due to gross income exceeding the limits?

FINDINGS OF FACT

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

1. On July 9, 2013, Claimant applied for CDC and FAP benefits.
2. On July 10, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective June 30, 2013, ongoing, due to her gross income exceeding the limits. Exhibit 1.

3. On July 10, 2013, the Notice of Case Action also notified Claimant that her FAP application was denied effective July 10, 2013, ongoing, due to her gross income exceeding the limits. Exhibit 1.
4. On July 15, 2013, Claimant filed a hearing request, protesting the Department's action. Exhibit 1.

CONCLUSIONS OF LAW

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

CDC benefits

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.

For income eligible CDC determinations, the income of all program group members must be considered. BEM 525 (January 2011), p. 1. The Department uses the gross (before deductions) countable, monthly income to determine the amount the Department will pay (department pay percent) towards the group's child care costs. BEM 525, p. 1. 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; See BEM 703 (July 2013), p. 13. It is not disputed that Claimant's group size is three.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6.

Moreover, the Department determines budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. The Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. Except, the Department can use prospective income for past month determinations. BEM 505, 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.

At the hearing, the Department presented a CDC – Income Eligibility document for review. See Exhibit 1. The budget indicated that Claimant's gross earned income was \$2,524. The Department testified that it based this on Claimant's pay stub, which indicated a gross weekly income of \$587.20. Using the conversion for weekly income as outlined in BEM 505; Claimant's standard monthly amount would be \$2,524 (\$587.20 weekly pay times 4.3). BEM 505, p. 6. Claimant agreed with this amount. Claimant testified that she works 40 hours a week, is paid weekly, and earns \$14.68 an hour.

Then, the Department testified that it added Claimant's military allotment of \$988 as unearned income. The Department testified that once these amounts are added together, this results in a total countable income of \$3,512. Thus, the Department testified that it will not contribute to child care because Claimant's gross monthly income for a group size of 3 is over \$1,990.00. RFT 270, p. 1.

Claimant's husband testified that he disagreed with the Department including his military allotment in the calculation of the budget. First, Claimant testified the \$988 is an education benefit from the military and that it is fluctuating amount as well. Claimant testified that it can range between \$200 - \$1,242.

The Department of Veterans Affairs (VA) has numerous programs that make payments to veterans and their families. BEM 503 (July 2013), p. 27. For all types of assistance, specifically VA education benefits, the VA provides educational benefits under several programs. BEM 503, p. 28. The Department *excludes educational benefits as income* and as an asset. BEM 503, p. 28; emphasis added.

Claimant testified that the \$988 is a VA educational benefit. Moreover, Claimant testified that the VA website identifies the income he receives as an educational benefit. The Department agreed with the Claimant.

Based on the foregoing information and evidence, the Department improperly denied Claimant's CDC application effective June 30, 2013, ongoing. Claimant agreed with her earned income calculation. However, BEM 503 specifically states that the Department is to exclude educational benefits as income. BEM 503, p. 28. The Department agreed that the \$988 was an educational benefit. Thus, the Department has to recalculate Claimant's CDC eligibility and exclude such unearned income.

FAP benefits

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.

A non-categorically eligible, non-Senior/Disabled/Veteran (SDV) group must have income below the gross and net income limits. BEM 550 (February 2012), p. 1. RFT 250, Column B. Monthly Net Income (100%) Limit states that a group size of three cannot have a net income limit over \$1,591. RFT 250 (October 2012), p. 1.

At the hearing, the Department presented as evidence the FAP budget for review. See Exhibit 1. The FAP budget indicated a gross earned income of \$2,524. See Exhibit 1. As stated in the CDC analysis, Claimant agreed with this calculation. However, the FAP budget also included Claimant's \$988 in VA education benefits.

Based on the foregoing information, the Department improperly denied Claimant's FAP application effective July 10, 2013, ongoing. Claimant agreed with her earned income calculation. However, BEM 503 specifically states that the Department is to exclude educational benefits as income. BEM 503, p. 28. The Department agreed that the \$988 was an educational benefit. Thus, the Department has to recalculate Claimant's FAP eligibility and exclude such unearned income.

It should be noted that there are no S/D/V FAP members. The Department properly applied the \$148 standard deduction applicable to Claimant's group size of three. RFT 255 (October 2012), p 1. Moreover, the budget indicated that Claimant did not have an excess shelter deduction; however, once the Department recalculates the FAP budget, it is possible for such a deduction.

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) improperly denied Claimant's CDC application effective June 30, 2013, ongoing, and (ii) improperly denied Claimant's FAP application effective July 10, 2013, ongoing.

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

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

1. Initiate reregistration of the July 9, 2013 CDC and FAP application;
2. Begin reprocessing the application/recalculating the CDC budget for June 30, 2013, ongoing, subject to excluding Claimant's husband's VA education benefits, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any CDC benefits she was eligible to receive but did not from June 30, 2013, ongoing;

4. Begin reprocessing the application/recalculating the FAP budget for July 10, 2013, ongoing, subject to excluding Claimant's husband's VA education benefits, in accordance with Department policy;
5. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not from July 10, 2013, ongoing; and
6. Begin notifying Claimant in writing of its FAP and CDC decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

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