

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-2774
Issue Nos.: 3015, 5000, 6019
Case No.: ██████████
Hearing Date: November 6, 2013
County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on November 6, 2013, from Hamtramck, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
██████████

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) and Food Assistance Program (FAP) cases for excess income?

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. In connection with a redetermination, Claimant identified her husband as a household member.
3. The Department recalculated Claimant's FAP and CDC budgets to include both Claimant's and her husband's earned income.
4. In a September 16, 2013, Notice of Case Action, the Department notified Claimant that her CDC case was closing effective October 6, 2013.

5. In a September 20, 2013, Notice of Case Action, the Department notified Claimant that her FAP case was closing effective October 1, 2013.
6. On September 26, 2013, Claimant filed a request for hearing disputing the Department's actions closing her CDC and FAP cases and the denial of her State Emergency Relief (SER) 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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, Claimant requested a hearing concerning the closure of her FAP and CDC cases and the denial of her SER application. At the hearing, Claimant testified that she had resolved the SER matter and did not wish to proceed with a hearing concerning that issue. Accordingly, Claimant's request for hearing concerning the denial of her SER application is dismissed. The hearing proceeded to discuss the closure of Claimant's FAP and CDC cases.

Closure of FAP Case

The September 20, 2013, Notice of Case Action sent to Claimant notified her that her FAP case would close effective October 1, 2013, because the group's net income exceeded the net income limit applicable under the program. For an FAP group size of five (consisting of Claimant, her husband and Claimant's three minor children), the net income limit is \$2,298. RFT 250 (October 2013), p. 1.

Because the Department did not produce an FAP budget despite the opportunity afforded during the hearing to provide a budget, the budget figures listed in the Notice of Case Action were reviewed. The Notice showed gross earned income for the household totaling \$4,053. Claimant submitted four paystubs with her redetermination

showing her weekly earnings for the weeks ending August 17, 2013 (\$474.30); August 24, 2013 (\$461.73); August 31, 2013 (\$463.12); and September 7, 2013 (\$433.60). The average of Claimant's weekly pay multiplied by 4.3 in accordance with Department policy results in Claimant having gross monthly earned income of \$1,970.20. See BEM 505 (October 2010), pp. 6-7. This would result in the Department finding that Claimant's husband's monthly gross earned income was \$2,083. The Department could not clearly identify which paystubs were used to determine Claimant's husband's earned income. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's household's gross earned income.

At the hearing, Claimant verified the shelter expenses the Department considered in calculating her FAP eligibility. However, she disputed the Department's finding that the household had no child support expenses, as reflected on the budget in the Notice of Case Action. The Department acknowledged that Claimant's husband's had child support obligations. While the Department testified that these expenses were \$294 monthly based on a consolidated inquiry report, it did not present a copy of the consolidated inquiry. Claimant disputed the Department's figure, testifying that \$125.95 was withheld from her husband's weekly paycheck for child support and showed that deduction in his earnings statement. Because the Department improperly failed to include child support expenses in the calculation of Claimant's FAP net income budget, the Department did not act in accordance with Department policy. See BEM 554, pp. 4-6.

Because the Department was unable to establish how it calculated Claimant's husband's earned income and because it failed to include Claimant's husband's child support expenses in the FAP budget, the Department did not act in accordance with Department policy when it calculated Claimant's FAP net income eligibility.

Closure of CDC Case

In a September 16, 2013, Notice of Case Action, the Department notified Claimant that her CDC case was closing because (1) the parent did not have a need for child day care services due to employment, education or family preservation reasons and (2) the group's gross income exceeded the limit.

In order to establish eligibility for CDC benefits, each parent in the household must establish a need for such benefits, which includes employment. BEM 703 (July 2013), p. 3. At the hearing, the Department confirmed that both Claimant and her husband were employed and had established a valid need for CDC benefits. Therefore, Claimant's case was improperly closed to the extent that it was based on a lack of need.

The Department contended, however, that Claimant's CDC case properly closed because her group's income exceeded the applicable gross income limit. Claimant's CDC case contained five members: Claimant, her husband, and her three minor children, all of whom live together. BEM 205 (December 2011), p. 1. The CDC income limit for a five-member CDC group is \$2,746. RFT 270 (October 2011), p. 1.

During the hearing, the Department produced Claimant's CDC budget that showed Claimant's household's gross income of \$2,784. The determination of a client's income eligibility for CDC benefits requires consideration of the client's gross monthly income. BEM 525 (January 2011), p. 1. As discussed above, Claimant's gross monthly earned income totaled \$1,970.20. In order to be income eligible for CDC benefits, Claimant's husband's gross monthly earned income would have to be \$776 (the difference between the \$2,746 income limit and Claimant's gross monthly earned income of \$1,970) or less. Although the Department was unable to identify which pay checks were used in the calculation of Claimant's husband's gross monthly earned income, his earning statement clearly establishes gross earnings greater than \$776 monthly. Therefore, the Department acted in accordance with Department policy when it closed Claimant's CDC case.

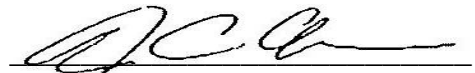
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Claimant's CDC case but did not act in accordance with Department policy when it closed Claimant's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to closure of Claimant's CDC case and REVERSED IN PART with respect to closure of Claimant's FAP case.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's FAP case as of October 1, 2013;
2. Recalculate Claimant's income eligibility for October 1, 2013, ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from October 1, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



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

Date Signed: November 12, 2013

Date Mailed: November 13, 2013

NOTICE OF APPEAL: 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.

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).

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

ACE/pf

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