

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

IN THE MATTER OF:

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██████████
████████████████████

Reg. No.: 2014-12485
Issue No(s): 2001;3001;6001
Case No.: ██████████
Hearing Date: December 12, 2013
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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, a telephone hearing was held on December 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's applications for Food Assistance Program (FAP), Medical Assistance (MA) and Child Development and Care (CDC) 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. On September 24, 2013, Claimant submitted an application for FAP, MA and CDC benefits. (Exhibit 1, pp.4-21)
2. On October 18, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP application had been denied on the basis that her income exceeded the limit; that her MA application had been denied on the basis that her assets exceeded the limit; and that her CDC application had been denied on the basis that her income exceeded the limit. (Exhibit 1, pp. 27-30)
3. On November 6, 2013, Claimant submitted a hearing request disputing the denial.

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).

FAP

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.

In this case, the Department testified that Claimant's FAP application was denied on the basis that her gross income exceeded the FAP gross income limit based on her group size. FAP groups with no SDV members must have income below the gross and net income limits. BEM 550 (July 2013), p 1. The gross income limit for a FAP group size of three is ██████ for FAP groups with no SDV member and ██████ for those categorically eligible. RFT 250 (October 2013), p 1, columns B and D (the limit applicable to enhanced domestic violence authorization); BEM 213 (July 2013), p 1 (providing that all FAP applicants are eligible for enhanced authorization for domestic violence prevention services).

At the hearing, the FAP Gross Income Test was reviewed. (Exhibit 1, p.24). The Department concluded that Claimant had gross income of ██████. In making that determination, the Department testified that it relied on the income amounts included on Claimant's application. Specifically, the Department stated that it considered Claimant's employment at Leo's where she is paid weekly, earns ██████ per hour and works ██████ hours per week. The Department also considered Claimant's employment at Levy Restaurants where she is paid biweekly, earns ██████ per hour and works ██████ hours per week. Additionally, the Department considered Claimant's weekly pay of ██████0 from Szott Dodge. (Exhibit 1, p.17). Although Claimant confirmed the income amounts relied on by the Department, after further review, the Department did not properly calculate Claimant's earned income, as the total gross earned income using the prospective budgeting formulas does not equal ██████. BEM 505 (July 2013), pp.1, 4, 6-8. Additionally, the application also indicates that Claimant earns bonus pay and commissions that the Department did not indicate were considered in the income budget. Therefore, because of the errors in the calculation of Claimant's earned income, the Department did not act in accordance with Department policy when it denied Claimant's FAP application based on her income exceeding the gross income limit.

MA

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family

Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

In this case, the Department testified that Claimant's MA application was denied on the basis that her assets exceeded the MA asset limit. Assets must be considered in determining eligibility for MA. BEM 400 (October 2013), p. 1. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. BEM 400, p. 9. Asset eligibility exists when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 3. For Claimant's MA program (Group 2 Caretaker MA [G2C]), the asset limit is [REDACTED]. BEM 400, p. 6.

Assets are defined as cash, any other personal property and real property. BEM 400, p.1. Money in checking and savings accounts are counted as cash and applied towards the MA asset limit. BEM 400, p.11. Additionally, for the G2C MA program, the Department will consider as assets the value of an IRA or retirement plan that a person can currently withdraw from the plan. The Department is to deduct any early withdrawal penalty, but not the amount of any taxes due. The funds in the plan are **not** available if the person must quit her job to withdraw any money. BEM 400, p.24. The Department is not required to request verification when the countable assets exceed the limit based on a person's own statement of value. BEM 400, p. 56.

At the hearing, the Department presented an MA Assets budget detailing the value of Claimant's assets. (Exhibit 1, p.26). The Department concluded that Claimant had liquid assets of [REDACTED] which came from cash in the checking and savings accounts identified on Claimant's application, as well as the value of Claimant's [REDACTED] confirmed that the bank account asset information included on her application was accurate; however, Claimant argued that if she were to cash in her IRA at the present time, she would be charged a penalty. Because the Department considered the whole value of Claimant's IRA and did not take into consideration the penalty that would be imposed if she were to cash it in at the present time, the Department did not act in accordance with Department policy when it denied Claimant's MA application on the basis that her assets exceeded the limit.

CDC

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.

In this case, Claimant requested a hearing to dispute the denial of CDC application due to excess income. The CDC income limit for a three-member CDC group is [REDACTED] RFT 270 (October 2011), p. 1.

At the hearing, the Department presented a CDC Income Eligibility budget for review. (Exhibit 1, p. 25). The Department determined that Claimant had earned income in the amount of [REDACTED]. Because of the errors in the calculation of Claimant's earned income, discussed above, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it denied Claimant's CDC application on the basis that her income exceeded the limit.

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 did not act in accordance with Department policy when it denied Claimant's FAP, MA and CDC applications.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

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. Register and process Claimant's September 24, 2013, applications for FAP, MA and CDC;
2. Issue supplements to Claimant for any FAP, MA and CDC benefits that she was entitled to receive but did not from the application date, ongoing; and
3. Notify Claimant in writing of its decision.



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

Date Signed: December 17, 2013

Date Mailed: December 18, 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

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]