

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201412651
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 17, 2013
County: Kent

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 17, 2013, from Lansing, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and AP Supervisor [REDACTED]. During this hearing Claimant stated that she does not require a hearing about Child Development and Care (CDC) benefits. The Child Development and Care (CDC) portion of this hearing is dismissed.

ISSUE

Did the Department determine the proper amount of Claimant's Food Assistance Program (FAP) benefits beginning November 1, 2013?

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 Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.
2. On September 18, 2013, Claimant reported a change in employment.
3. On September 19, 2013, Claimant was sent a Verification Checklist (DHS Form 3503) regarding her Food Assistance Program (FAP) benefits. The correspondence requested verification of Claimant's new income and loss of her old employment.

4. On October 1, 2013, Claimant was sent notice that her Child Development and Care (CDC) closed due to excess income from her new employment.
5. On October 9, 2013, Claimant was sent notice that her Food Assistance Program (FAP) would close on November 1, 2013, for failure to provide verification of her loss of employment.
6. On October 25, 2013, Claimant submitted an application for Child Development and Care (CDC) benefits.
7. On November 4, 2013, Claimant submitted a request for hearing.
8. On November 5, 2013, Claimant was sent notice that her Child Development and Care (CDC) application was denied due to excess income.
9. On November 14, 2013, Claimant was sent notice that her Food Assistance Program (FAP) benefits were reinstated as of November 1, 2013.

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.

In this case the issues over which Claimant originally requested this hearing were resolved. At this hearing Claimant raised a concern over her child care expenses were not included in her Food Assistance Program (FAP) financial eligibility budget. Department of Human Services Bridges Administration Manual (BAM) 600 (2013) page 4 provides that a hearing may be granted for the current level of FAP benefits. Page 2 provides that for FAP a hearing request may be written or oral. Even though the previous issues are resolved, there is jurisdiction to review Claimant's current level of FAP benefits.

Department of Human Services Bridges Eligibility Manual (BEM) 554 FAP Allowable Expenses and Expense Budgeting (2013) provides:

ALLOWABLE EXPENSES

An expense is allowed if all of the following:

The service is provided by someone outside of the FAP group.

Someone in the FAP group has the responsibility to pay for the service in money.

Verification is provided, if required.

DEPENDENT CARE EXPENSES

Allow an **unreimbursed** dependent care expense for a child or an incapacitated adult who is a member of the FAP group, when such care is necessary to enable a member of the FAP group to work. This is the amount the FAP group actually pays out-of-pocket. The expense does **not** have to be paid to be allowed. Allow only the amount the provider expects the client to pay out-of-pocket. Work includes seeking, accepting or continuing employment; or training or education preparatory to employment.

Case Management Tip: Be especially careful in following the above dependent care expense budgeting policy if the client's dependent care is reimbursed by the Child Development and Care program (CDC) or another agency or person.

Verification

Verify dependent care expenses at application, reported change and redetermination.

Verification Sources

Acceptable verification sources include, but are not limited to, bills or written statement or collateral contact with the provider.

Under the specific circumstances of this case Claimant had reported a change in employment on September 18, 2013. Claimant had previously received Child Development and Care (CDC) benefits in order to work. The September 19, 2013 Verification Checklist (DHS Form 3503) did not request information on Claimant's dependent child care expenses. The absence of that verification request is understandable because Claimant was still receiving CDC benefits at the time.

On October 1, 2013, Claimant was sent notice that her CDC was being closed due to excess income. At that time the Department knew Claimant had a dependent child care expense which was not being paid by the Department. No determination about her FAP eligibility following the reported change had been made on October 1, 2013. The provisions of BEM 554, cited above, were applicable on October 1, 2013.

In accordance with Department policy, verification of Claimant's unreimbursed dependent child care expense should have been requested by the Department once her CDC closed. If Department policy had been followed, Claimant's dependent child care expense would have been included in the FAP financial eligibility budget used to determine her benefit eligibility from November 1, 2013 ongoing.

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 when it determined the amount of Claimant's Food Assistance Program (FAP) benefits beginning November 1, 2013.

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. Request verification of Claimant's dependent child care expense and apply that expense to Claimant's Food Assistance Program (FAP) financial eligibility budget in accordance with Department policy.
2. Supplement Claimant any Food Assistance Program (FAP) benefits she was otherwise eligible for but did not receive due to this oversight.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/20/2013

Date Mailed: 12/23/2013

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

GFH/sw

cc:

