

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

IN THE MATTER OF:



Reg. No.: 201414339
Issue No.: 3008; 6008
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Wayne County DHS #15

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, a telephone hearing was held on December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) case and deny her CDC application?

Did the Department properly calculate 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 CDC benefits.
2. The Department closed Claimant's CDC case effective December 1, 2013, because her income exceeded the applicable CDC income limit.
3. In November, 2013, Claimant reapplied for CDC benefits.

4. On November 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied because of excess income and her FAP benefits were being reduced to \$ [REDACTED] monthly effective December 1, 2013.
5. On November 14, 2013, Claimant filed a request for hearing concerning the closure of her CDC case and denial of her CDC application and the amount of her FAP benefits.

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 t o 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 filed a request for hearing concerning the closure of her CDC case and denial of her CDC application and the reduction of her FAP benefits.

CDC

The evidence at the hearing established that Claimant's CDC case had closed effective December 1, 2013 and a November 2013 CDC application was denied because Claimant's gross income exceeded the CDC income limit. Groups who are not categorically eligible for CDC benefits (based on protective services, foster care or FIP/EFIP-related situations) may be eligible for CDC if they pass the income eligibility test. BEM 703 (July 2013), pp. 14-16. The income eligibility test is based on the number of CDC group members. Claimant's CDC group contains four members: Claimant and her three minor children. BEM 205 (July 2013), p. 1. The CDC income limit for a four-member CDC group is \$ [REDACTED] RFT 270 (December 2013), p. 1.

At the hearing, the Department presented a CDC income eligibility budget showing the calculation of Claimant's income for CDC purposes. The determination of a client's income eligibility for CDC benefits requires consideration of the client's gross monthly

income. BEM 525 (July 2013), p. 1. The CDC budget showed that Claimant had monthly earned income of \$ [REDACTED] and monthly child support income of \$ [REDACTED]. Claimant disputed the calculation of her earned and child support income. However, the Department was unable to identify what pay information it used to calculate Claimant's earnings and did not present a consolidated inquiry or any other documentation to establish the child support paid to Claimant. In the absence of any evidence to support its finding that Claimant had gross monthly income in excess of the \$ [REDACTED] gross monthly income limit for receipt of CDC benefits, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's CDC case and denied her CDC application.

FAP

Claimant also disputed the calculation of her FAP benefits for December 1, 2013, ongoing. Because the Department did not provide a FAP net income budget showing the calculation of Claimant's monthly FAP benefits, the budget figures contained in the November 12, 2013 Notice of Case Action was reviewed at the hearing. The Notice showed that the Department considered the same gross monthly earned and child support income as shown in the CDC budget. As discussed above, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated these figures.

Claimant also challenged the Department's use of \$ [REDACTED] for monthly housing costs, stating that she paid \$ [REDACTED] monthly. However, Claimant admitted that she did not verify her increased housing expenses until she submitted her November 14, 2013 hearing request. Because Claimant did not advise the Department of the shelter expense change until her hearing request was filed, it is not considered in this Hearing Decision. However, the Department must process this increase in expenses in accordance with Department policy. See BAM 220 (July 2013), pp. 9-10. Claimant is advised to request a hearing if she believes the Department has not properly processed her updated housing expenses.

Claimant also testified that she had dependent care expenses were not considered. Claimant testified that after she stopped receiving CDC benefits, her monthly day care expenses increased to \$ [REDACTED]. Because the Department was aware that Claimant would incur greater day care expenses when she no longer received CDC benefits, the Department did not act in accordance with Department policy when it did not request verification of those expenses and consider the increased expenses in the calculation of Claimant's FAP budget for December 1, 2013, ongoing. BEM 554 (July 2013), pp. 7-8.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant CDC case and denied her CDC application based on excess income and calculated Claimant's monthly FAP benefits for December 1, 2013, ongoing.

DECISION AND ORDER

Accordingly, the Department's CDC and FAP decisions are **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. Reinstate Claimant's CDC case effective December 1, 2013;
2. Recalculate Claimant's FAP budget and CDC eligibility for December 1, 2013, ongoing;
3. Issue supplements to Claimant for any CDC and/or FAP benefits she was eligible to receive but did not from December 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: December 27, 2013

Date Mailed: December 27, 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.

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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/hj

cc:

