

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-46046
Issue No.: 3002, 6019
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Wayne DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility?

FINDINGS OF FACT

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

1. The Claimant was an ongoing Food Assistance Program (FAP) and Child Development and Care (CDC) recipient.
2. On [REDACTED] the Claimant completed a Redetermination (DHS-1010) from the internet.
3. The Department determined that the Claimant receives monthly child support income in the gross monthly amount of [REDACTED].
4. On [REDACTED] the Department notified the Claimant that it had approved her for 60 hours of Child Development and Care (CDC) benefits

with a 95% Department subsidy and a Food Assistance Program (FAP) allotment of [REDACTED]

5. The Department received the Claimant's request for a hearing on [REDACTED] [REDACTED] protesting the amount of Child Development and Care (CDC) and Food Assistance Program (FAP) benefits granted by the Department.

CONCLUSIONS OF LAW

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 1999 AC, R 400.3001 through Rule 400.3015.

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 1999 AC, R 400.5001 through Rule 400.5015.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (January 1, 2013).

The Claimant was an ongoing Food Assistance Program (FAP) and Child Development and Care (CDC) benefits when she completed a routine Redetermination (DHS-1010) from the internet. The Department updated the Claimant's information and eligibility to receive benefits.

The Claimant receives monthly earned income in the gross monthly amount of [REDACTED] an amount that the Claimant does not dispute. The Department determined that the Claimant receives monthly child support income in the gross monthly amount of [REDACTED]. The Department applied this income to determine that as of [REDACTED], the Claimant was eligible for Food Assistance Program (FAP) in the amount of [REDACTED], and 60 hours Child Development and Care (CDC) with a 95% Department subsidy.

The Department use the average of child support payments received in the past three calendar months, unless changes are expected. The Department may include the current month if all payments expected for the month have been received. The Department will not include amounts that are unusual and not expected to continue. If the past three months' child support is not a good indicator of future payments, the Department will calculate an expected monthly amount for the benefit month based on available information and discussion with the client. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2010), pp 3-4.

The Department's representative testified that its records indicate that the Claimant received child support in the gross total amount of [REDACTED] over the previous three calendar months. Based on this information, the Department determined that the Claimant receives child support income in the gross monthly amount of [REDACTED]

The Department representative testified that the Claimant received payment for her January child support in February, and that this caused an increase to the monthly average of child support income, and resulted in a decrease of her benefits.

However, the Department's exhibits do not support his determination. The Department exhibits show child support income received on [REDACTED], in the amount of \$ [REDACTED] in the amount of [REDACTED], on [REDACTED] 013, in the amount of [REDACTED] and on [REDACTED], in the amount of [REDACTED]

Furthermore, even if the [REDACTED] 3, child support income is accounted for in [REDACTED], this Administrative Law Judge finds this income distribution to be unusual and not expected to continue.

Therefore, this Administrative Law Judge finds that the Department failed to establish that it properly determined the Claimant's monthly unearned income or apply this income towards her eligibility to receive benefits. The Department failed to establish that it properly determined the Claimant's eligibility for the Food Assistance Program (FAP) or the Child Development and Care (CDC) program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's monthly child support income and eligibility for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.

The Department's Food Assistance Program (FAP) and Child Development and Care (CDC) eligibility determinations are **REVERSED**.

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

1. Allow the Claimant a ten-day period to clarify the amount of child support income received from [REDACTED]

2. Initiate a determination of the Claimant's eligibility for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits as of [REDACTED]
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

/s/ **Kevin Scully**
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 06/18/2013

Date Mailed: 06/18/2013

NOTICE: 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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at:

2013-46046/KS

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

KS/kl

cc:

