

**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.: 2013-57174
Issue No.: 3002;6043
Case No.: ██████████
Hearing Date: August 8, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 conducted on August 8, 2013 from Detroit, Michigan. Claimant and ██████████, appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████, Eligibility Specialist, and ██████████, Program Manager.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case and deny her application for Child Development 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. Claimant was an ongoing recipient of FAP benefits.
2. Claimant submitted an application for CDC benefits on July 9, 2013.
3. On July 9, 2013, the Department sent Claimant a Notice of Case Action informing her that effective August 1, 2013, her FAP case would be closed because her gross income exceeded the limit and that effective July 28, 2013 her CDC case would be closed due to excess income. (Exhibit 2).
4. On July 12, 2013, Claimant filed a hearing request disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Mich. Admin Code. Rule 400.3001 through Rule 400.3015.

Additionally, all countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2013), pp. 1 – 3. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2010), p. 1. In calculating a client's earned income, the Department must determine a best estimate of income expected to be received by the client during a specific month. BEM 505 (October 2010), p 2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 4. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 6. Income received bi weekly is converted to a standard amount by multiplying the average of the bi weekly paychecks by the 2.15 multiplier and income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 6-7.

At the hearing, the Department testified that in connection with Claimant's CDC application, her income information was updated for her FAP case and her eligibility was reviewed. The Department stated that in calculating Claimant's income for FAP purposes, it relied on Claimant's employment and pay information found on the Work Number. (Exhibit 1). The Department testified that after sending Claimant a Notice of Case Action informing her of the FAP case closure effective August 1, 2013 due to excess income, it became aware that the figures relied on from the Work Number were incorrect. The Department acknowledged that there were errors in the processing of Claimant's FAP case and recognized the need to recalculate the FAP budget. The Department stated that after Claimant submitted her request for hearing, the FAP budget was recalculated; however, that action taken by the Department was not addressed during the hearing as it occurred after Claimant's request for hearing was submitted. Therefore, because of the known errors in the calculation of Claimant's income for FAP purposes, the Department did not act in accordance with Department policy when it closed Claimant's FAP case on the basis that her income exceeded the FAP income limit.

CDC

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 1997 AACRS R 400.5001-5015.

In this case, Claimant requested a hearing regarding the Department's processing of her CDC case. At the hearing, the Department initially testified that Claimant submitted an application for CDC on July 9, 2013 and that the application was denied by the Department. Claimant disputed this testimony and stated that she submitted a change report adding ██████████ to the already existing CDC case that was active with ██████████ akiya. Claimant raised concerns regarding the Department's testimony that a new application needs to be submitted and processed for each child being added on to a case. Throughout the hearing, there was conflicting testimony regarding the date of the application and the several notices of case action that were sent to Claimant regarding the status of her CDC case.

The Department presented a Notice of Case Action dated July 9, 2013 that was sent to Claimant informing her that CDC benefits for ██████████ were closed for the period of April 7, 2013 through May 18, 2013 on the basis that she was ineligible to receive CDC because the CDC requirements were not met. This Notice also informed Claimant that CDC for ██████████ would be closing effective July 28, 2013 on the basis that Claimant's gross income exceeded the limit. (Exhibit 2). As discussed above, the income information relied on by the Department in making the excess income determination was not accurate. Therefore, the Department's closure of Claimant's CDC case due to excess income was improper.

Additionally, Claimant testified that she received a Notice of Case Action from the Department on or about June 28, 2013 informing her that CDC benefits for ██████████ was approved but that CDC benefits for ██████████ was denied on the basis that there was no need for CDC because a parent was not employed. The Department confirmed Claimant's testimony; however, remained unable to explain why Claimant was sent multiple conflicting Notices of Case Action or what exactly happened in this case. Therefore, due to the conflicting testimony provided by both Claimant and the Department, it is found that the Department did not satisfy its burden in establishing that it acted in accordance with Department policy when it processed Claimant's CDC case.

DECISION AND ORDER

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

due to excess income. Accordingly, the Department's decisions with respect to FAP and CDC are REVERSED.

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

1. Initiate reinstatement of Claimant's FAP case effective July 1, 2013;
2. Begin recalculating the FAP budget for July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
3. Begin the issuance of supplements to Claimant for any FAP benefits she was entitled to receive but did not from July 1, 2013 ongoing;
4. Initiate reinstatement of Claimant's CDC case for [REDACTED] effective July 1, 2013;
5. Reregister the CDC application submitted for [REDACTED]
6. Begin reprocessing Claimant's continued eligibility for CDC benefits for both of her children based on the correct income information from July 1, 2013 ongoing in accordance with Department policy and consistent with this Hearing Decision;
7. Provide Claimant with CDC coverage she was eligible to receive from July 1, 2013 ongoing; and
8. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: August 20, 2013

Date Mailed: August 20, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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/cl

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