

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-64704
Issue No.: 6000, 3003
Case No.: [REDACTED]
Hearing Date: September 19, 2013
County: Wayne DHS (98)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 19, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager.

ISSUES

The first issue is whether Claimant timely requested a hearing to dispute a Child Development and Care benefit termination.

The second issue is whether DHS properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits for [REDACTED]/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. In 2010, Claimant was an ongoing CDC benefit recipient.
2. On an unspecified date in 2010, DHS mailed written notice of a CDC benefit termination, effective [REDACTED]/2010.
3. Claimant was an ongoing FAP benefit recipient.

4. In [REDACTED]/2013, Claimant received \$453 in Retirement, Survivors, Disability Insurance (RSDI), \$186 in federally-issued Supplemental Security Income (SSI) and \$14 in state-issued SSI.
5. In [REDACTED] 2013, Claimant received \$557 in FIP benefits.
6. Claimant received the following child support payments: \$9.69 for [REDACTED] 2013, \$8.22 for [REDACTED]/2013 and \$7.01 for [REDACTED]/2013
7. In [REDACTED]/2013, Claimant's daughter received \$275.20 in employment income for performing chore services.
8. Concerning [REDACTED]/2013 FAP eligibility, Claimant failed to report any dependent care expenses to DHS.
9. Concerning [REDACTED]/2013 FAP eligibility, Claimant failed to verify any medical expenses to DHS.
10. Concerning [REDACTED]/2013 FAP eligibility, Claimant timely verified a \$300 rental expense.
11. On an unspecified date, DHS terminated Claimant's FAP eligibility, effective [REDACTED]/2013.
12. On an unspecified date, a subsequent administrative decision ordered DHS to redetermine Claimant's FAP eligibility, effective [REDACTED]/2013.
13. On [REDACTED]/13, Claimant requested a hearing to dispute a FAP determination for [REDACTED]/2013 and a CDC benefit termination effective [REDACTED]/10.

CONCLUSIONS OF LAW

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 Mich Admin Code, R 400.5001 through R 400.5015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Prior to a substantive analysis of the hearing request, it should be noted that the request noted special arrangements in order for Claimant to participate and/or attend the hearing. Claimant arrived to, and participated in the hearing; did testify without any mention of a need for special arrangements. There was no reasonably ascertainable need by Claimant for special arrangements. Thus, it is presumed that Claimant required no special arrangements.

Claimant requested a hearing, in part, to dispute a termination of CDC benefits. It was not disputed that the termination became effective the pay period of [REDACTED]/10.

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. BAM 600 (2/2013), p. 1. The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. *Id.*, p. 4.

DHS presented testimony that written notice of a CDC termination to be effective [REDACTED]/2010 would have been mailed to Claimant in [REDACTED]/2010. Claimant requested a hearing on [REDACTED]13. Claimant was approximately three years and two and half months too late in requesting a hearing.

If DHS failed to send Claimant a written notice of termination, then the 90-day limit for requesting a hearing is inapplicable and Claimant might have a timely hearing request. As it happened, Claimant testified that she never received written notice of the CDC benefit termination. Claimant was asked why she waited over three years to request a hearing to dispute a benefit termination. Claimant responded that she would have requested a hearing, but that she was told by a DHS staff-person that persons were not eligible to receive CDC benefits for disability-related reasons. Claimant's response was insufficient to overcome the absurdity of waiting over three years from a case closure to request a hearing. It is found that DHS mailed Claimant written notice of a CDC benefit termination in [REDACTED]/2010 and that Claimant's hearing request was untimely.

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, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also requested a hearing to dispute a \$588 FAP benefit issuance for [REDACTED]/2013. Claimant testified that she was not disputing FAP issuance from any other months.

DHS failed to present a budget of how the issuance was determined. DHS was asked to present a budget following the hearing. Instead of submitting a FAP benefit budget showing how the \$588 issuance was calculated, DHS submitted a FAP budget showing an updated \$709 issuance. It is not known whether this amount was issued to Claimant or whether Claimant is satisfied with the issuance. For purposes of this decision, it will be assumed that the issuance was \$588 (as stated during the hearing) and that Claimant still contests the issuance.

FAP benefit budget factors include: income, standard deduction, mortgage expenses utility credit, medical expenses, child support expenses, day care expenses, group size and senior/disability/disabled veteran status. Claimant raised multiple disputes.

It was not disputed that Claimant received Social Security Administration income. Following the hearing, an SOLQ was submitted. The SOLQ verified that Claimant receives \$186/month in SSI and \$453 in RSDI. It was not disputed that Claimant received an average of \$14/month in state-issued SSI. The total income from SSA and state issued SSI is found to be \$653.

Claimant testified that she received \$420/month in FIP benefits. DHS presented a budget verifying that Claimant received \$557 for █/2013. A DHS budget is more persuasive than testimony. It is found that Claimant received \$557 in FIP benefits.

It was not disputed that Claimant received child support. For child support income, DHS is to use the average of child support payments received in the past three calendar months, unless changes are expected. BEM 505 (10/2010), p. 3. DHS presented a child support screen verifying that Claimant received the following child support income: \$9.69 for █/2013, \$8.22 for █/2013 and \$7.01 for █/2013. The average income is \$8.30.

It was not disputed that Claimant's adult child received chore services income. DHS presented a document verifying that Claimant's daughter received \$275.20 in █/2013.

Claimant alleged that she incurred dependent care and medical expenses for █/2013. Claimant alleged reporting both expenses to DHS prior to █/2013. Following the hearing, DHS presented Claimant's most recent Redetermination. The Redetermination listed an unspecified amount of medical expenses and no dependent care expenses. It is found that Claimant failed to report any day care expenses to DHS.

DHS is to verify allowable medical expenses including the amount of reimbursement, at initial application and redetermination. BEM 554 (10/2012), p. 9. Claimant testified that she submitted proof of the expenses to DHS with her Redetermination. DHS denied receiving Claimant's verification of medical expenses. Claimant testified that she incurred doctor bills and other medical expenses. It was not disputed that Claimant received Medicaid. If Claimant received Medicaid, it is improbable that Claimant had any notable medical expenses. Claimant failed to bring proof of the expenses to the hearing. If Claimant did not bring proof of the expenses to the hearing, it is improbable that she submitted them to DHS. It is found that Claimant failed to verify medical expenses.

Claimant also alleged that she had a \$300 rental expense in █/2013. DHS is to verify a shelter expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. *Id.*, p. 11.

Claimant testified that she submitted to DHS a credit card receipt of a rent payment and a copy of a lease before █/2013. DHS presented testimony that Claimant did not return verification of shelter expenses until █/2013. Claimant presented sufficient details concerning when and how she verified her rent with DHS. DHS could only respond that the information allegedly submitted by Claimant was not in the file. DHS did not impress

with their paperwork abilities before, or during the hearing. DHS also presented no first-hand testimony to rebut Claimant's testimony. It is found that DHS should have factored a \$300 rental expense.

Several budget findings were made concerning Claimant's [REDACTED]/2013 FAP eligibility. DHS will be ordered to adopt these findings in recalculating Claimant's FAP eligibility for [REDACTED]/2013. Because DHS failed to present a FAP benefit budget, it is uncertain if the findings will affect Claimant's FAP eligibility for [REDACTED]/2013.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely dispute a CDC benefit termination effective 6/6/10. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to properly determine Claimant's FAP eligibility for 5/2013. It is ordered that DHS perform the following actions:

(1) recalculate Claimant's FAP eligibility for 5/2013 subject to the following budget factors:

- a. Claimant received \$453 in RSDI.
- b. Claimant received \$186 in SSI.
- c. Claimant received \$14 in state-issued SSI.
- d. Claimant received \$557 in FIP benefits.
- e. DHS should have budgeted \$8.30 in child support.
- f. Claimant's daughter received \$275.20 in employment income from chore services.
- g. Claimant failed to verify medical or dependent care expenses.
- h. Claimant timely verified a \$300 rental expense.

(2) initiate supplement for any FAP benefits improperly not issued.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 9/27/2013

Date Mailed: 9/27/2013

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

CG/hw

cc:

