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

IN THE MATTER OF:



Reg. No.: Issue No(s).: Case No.: Hearing Date: County:

2014-14304 3001, 6001

January 7, 2014 Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 CF R 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 January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included for the Claimant. Participants on behalf of the Depart ment of Human Servic es (Department) included Assistance Payments Supervisor.

ISSUES

- 1. Did the Department proper ly deny the Claimant's Ch ild Development and Care (CDC) application due to being over the income limit?
- 2. Did the Department properly re-determine the Claim ant's eligibility for the Food Assistance Program (FAP) based on updated income information?

FINDINGS OF FACT

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

- 1. The Claimant was a recipient of FAP benefits.
- 2. On September 12, 2013, the Claimant applied for CDC.
- 3. On October 10, 2013, the Claimant su bmitted paystubs for both adult group members.
- 4. October 28, 2013, a Notice of Case Action was issued to the Claimant stating CDC was denied because gross income exceeds the limit.

- 5. On October 29, 2012, a Notice of Case Action was iss ued to the Claimant stating the FAP monthly allotment would decreas e to \$ fective December 1, 2013 because shelter expense or income has changed.
- 6. The Department obtained additional income verification.
- 7. On November 13, 2013, a Notice of Case Action was issued to the Claimant stating the FAP case would close effective December 1, 2013 because net income exceeds the limit.
- 8. On November 15, 2013, the Claimant filed requests for hearing contesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Service s Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), D epartment of Human Servic es 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] i s established by the Food Stamp Act of 197 7, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations c ontained in 7 CFR 271. 1 to 285.5. The Department (formerly known as the Fam ily Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Car e (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 Respons ibility and Work Opportunity Reconcilia tion 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 t o adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, a Claimant must cooperate wit h the local office in determining initia I and ongoing eligibility, including c ompletion of necessary forms, and must completely an d truthfully answer all questions on forms and in interviews. BAM 105.

For CDC, if the program group does not qualify for one of t he categorically eligible groups, the Department must determine eligibil ity for the income-eligible group. The program group's countable income is tested against t he Child Development and Care Income Eligibility Scale found in RFT 270. BEM 703. For a group of three, there is no DHS assistance if gross monthly income is over **\$ RFT** 270.

For FAP, a non-categorically eligible non- Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550. For a group size of three, the FAP gross income limit is **\$1000** and the net income limit is **\$1000**

RFT 250. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. BEM 505.

The Claimant was a recipient of FAP bene fits and the Department calculat ed the FAP budget based on their understanding that only the Claimant had employment income. On September 12, 2013, the Claimant applied for CDC. In the CDC a pplication, the Claimant reported both adults in the home were employed. The Department's hearing Summary indicates this was the first time the other adult group member's employment was reported. The Claimant testified she previously reported when the other adult group member began employ ment by leav ing a detailed v oice mess age for a Department worker. The Cl aimant thought she had provided s ufficient detail of the employment in her message because the work er did not call her back. The Claimant explained that this worker had previous ly indicated he typically only calls a client back if additional information was needed.

For whatever reason, it appear s that the group member's employment that started in May 2013 was not entered into the Department's system for determining FAP eligibility prior to the September 12, 2013 CDC application. The Department then utilized the paystubs the Claimant submitted for both adult group members on October 10, 2013, for determining eligibility for the CDC application and for the ongoing FAP benefits.

On October 28, 2013, a Notice of Case Ac tion was issued to the Claimant stating CD C was denied becaus e gross income exceeds the limit. The paystubs submitted by the Claimant indicated her average gross monthly income was \$ and the other adult group member's average monthly gross income was \$ The group's total gross monthly income was \$ Pursuant to RFT 270, there is no DHS ass istance for a group of three if gross monthly income is over \$ The Cla imant testified the average income figures sounded right and st ated she was okay with not getting child care. Accordingly, the Department's det ermination to deny the CDC a pplication is upheld.

The Department also properly considered the current income information for redetermining eligibility for FAP benefits. On October 29, 2012, a Notice of Case Action was issued to the Claimant stating the F AP monthly allotment w ould decrease to \$16 effective December 1, 2013 because shelte r expense or income has changed. However, this action was never implement ed because a second Notice of Case Action was issued on Nov ember 13, 2013, indica ting the Department obtained additional income verification and stated the FAP cas e would c lose effective December 1, 2013 because net income exceeds the limit. Accord ingly, only the determination to close the Claimant's FAP case will be reviewed.

The Assist ance Pay ments Supervisor confirmed that the FAP closure was based on excess income and not on a failure to report the other adult group member's employment. The Assistance Payment's Supervisor credibly testified that the current net income total is **Supervisor** The Claimant did not provide any evidence disputing the net income figure utilized by the Department. Accordingly, the FAP closure must be upheld because the Claimant's FAP group had income in excess of the **Supervisor** limit for a FAP group size of 3.

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 acted in accordance with Department policy when it denied the Claim ant's CDC application and closed the Claimant's FAP case based on income in excess of program limits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

/s/

Colleen Lack Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: January 10, 2014

Date Mailed: January 10, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Deci sion and Order or, if a ti mely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Rec onsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the req uest of a p arty within 30 days of the mailing date of this De cision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final deci sion 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 existe d 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 a ddress in the hearing d ecision 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

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