

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201412284
Issue No(s): 6007
Case No.: [REDACTED]
Hearing Date: January 29, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 January 29, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], APW.

ISSUE

Did the Department properly calculate claimant's CDC allotment?

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 a CDC recipient in Wayne County.
2. Claimant's CDC grant was calculated without figuring in claimant's travel time from her CDC provider to her place of employment.
3. On [REDACTED] [REDACTED] claimant requested a hearing, arguing that her travel time should be included in her CDC grant. Claimant had no other grievances with the Department, and took no other issue.
4. No facts were in dispute during the current matter, and the hearing was requested solely as a dispute regarding a matter of law.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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 to 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.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

At the hearing, it was determined that there was no dispute as to the facts of the matter between the claimant and the Department, and the hearing was requested solely to request a ruling as to whether the law or policy provides that travel time be included in a CDC need calculation.

The Administrative Law Judge has evaluated the current policy and found no provision to allow travel time. BEM 703 states that the Department is to verify the hours worked in order to determine need.

In order to calculate need, the Department must calculate the actual need hours per week based upon the time spent in an approved activity. These hours are then multiplied by two, and rounded up to the nearest 20 hour increment. BEM 710, pg. 1.

In the claimant's case, claimant has exactly 40 hours of need per biweekly period, and thus is not eligible for the amount of time for travel.

Unfortunately, this appears to be intentional. On October 1, 2011, the Department of Human Services issued policy bulletin BPB 2011-17. In this bulletin, the Department specifically stated that:

Effective October 9, 2011, DHS will no longer authorize child care for a parent's travel time.

At the next case action, the specialist must check the number of authorized hours for accuracy.

Reason: Budgetary constraints.

Thus, while travel time was authorized to be used prior to October 9, 2011, the Department specifically removed that provision from policy, intending to remove allowances for travel time.

Furthermore, after an exhaustive and careful review of the controlling federal law, including the Child Care and Development Block Grant of 1990, (PL 101-508, 42 USC 9858 et seq.) and 45 CFR Parts 98 and 99, the undersigned found no provision that *specifically* guarantees travel time.

As such, the undersigned must hold that the Department specifically intended to disallow travel time, and as travel time is not provided for in policy, nor is it specifically provided for in the controlling law, the Department was correct to not include it in the claimant's CDC need calculation.

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

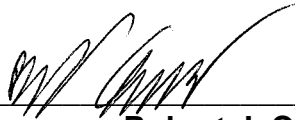
- acted in accordance with Department policy when it calculated claimant's CDC policy.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to and REVERSED IN PART with respect to .

- 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:



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/21/2014

Date Mailed: 2/21/2014

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.

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

RJC/hw

cc:

