

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

IN THE MATTER OF:



Reg. No.: 201420964
Issue No.: 3008, 6001
Case No.: [REDACTED]
Hearing Date: January 30, 2013
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 30, 2014 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits due to an increase in income?

Did the Department properly close Claimant's Child Development and Care (CDC) case due to excess income?

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 active for FAP with a monthly allotment of [REDACTED] and a group size of 3.
2. On December 26, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's CDC case for both children and then approved CDC effective January 1, 2014. With regard to FAP, the DHS-1605 approved Claimant's FAP effective January 1, 2014 in the amount of [REDACTED].

3. Claimant requested a hearing to dispute the Department's decisions to reduce her FAP benefits and to close her CDC case.

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 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.

For FAP purposes, all earned and unearned income available to an applicant or recipient is countable. BEM 500. Earned income means income received from another person or organization or from self-employment 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 (AMP), alimony, and child support payments. BEM 500.

The Department uses gross income when determining countable income. BEM 500. Gross income is the amount of income before any deductions such as taxes or garnishments. BEM 500. The amount counted may be more than the client actually receives. BEM 500.

Income from employment is covered in BEM 501. Wages are the pay an employee receives from another individual or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501. For general wages, salaries and commissions, the Department uses the following as acceptable verifications: (1) check stubs or earnings statement; (2) DHS verification of employment forms, for example DHS-38, Verification of Employment; (3) Employer signed statement providing all necessary information; (4) Employer generated work schedule, when pay frequency, pay day and rate of pay are known; (5) The Work Number; (6) Employment services contractors including the one-stop service center, the work participation provider and refugee employment services contractors; and (7) starting or increasing income. BEM 501.

Here, Claimant requested a hearing because she disagrees with the Department's calculation of her monthly FAP benefits for December 1, 2013. The Department

contends that Claimant's earned income from employment ([REDACTED]) for the month of November, 2013 was [REDACTED]. The Department claims that Claimant also received [REDACTED] (which averaged from three months) from child support during November, 2013. Together, the Department argues that Claimant's total countable monthly income was [REDACTED]. Claimant, on the other hand, contends that she did not make [REDACTED] in earned income during that time period. Claimant does not dispute the child support figure.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

The record reveals that Claimant's earned income from November, 2013 was greater than the amount the Department has calculated. According to the Work Number, in November, Claimant received bi-weekly payments of [REDACTED], [REDACTED] and [REDACTED]. The record also shows that Claimant received child support in the amount of [REDACTED] during this period of time. Therefore, Claimant's group received a total monthly income of [REDACTED] ([REDACTED] + [REDACTED]), which is reduced by an earned income deduction of [REDACTED] and a standard deduction of [REDACTED], which leaves an adjusted gross income of [REDACTED]. An excess shelter deduction of [REDACTED] was subtracted from Claimant's adjusted gross income of [REDACTED] resulting in Claimant receiving [REDACTED] in net income. A claimant with a group size of 3 has a maximum net income limit of [REDACTED]. RFT 250. Because Claimant had a certified group size of 3 and a total countable monthly income of [REDACTED], the food issuance tables indicate that the proper monthly FAP allotment is [REDACTED]. See RFT 260.

Claimant also requested a hearing concerning the closure of her CDC case due to excess income. The CDC program is summarized below.

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.

CDC program groups in the income eligible group must have gross income that falls within the income scale below to be eligible for subsidy benefits. RFT 270, p 1 (12-1-2013). Claimant had a monthly earned income of [REDACTED] plus [REDACTED] from child


support equals [REDACTED] in total monthly countable income. Per RFT 270, a CDC with group size of 3, there is no DHS assistance available if gross monthly income is over [REDACTED]. Because Claimant's total monthly countable income of [REDACTED] is greater than the [REDACTED] limit for CDC under RFT 270, Claimant is no longer income eligible for CDC.

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 determined Claimant's monthly FAP benefits and closed Claimant's CDC case due to excess income.

DECISION AND ORDER

Accordingly, the Department's CDC and FAP decisions are **AFFIRMED**.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 5, 2014

Date Mailed: February 6, 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.

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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

CAP/aca

cc:

