

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

IN THE MATTER OF:



Reg. No.: 201434015
Issue No.: 3001; 5001; 6001
Case No.:
Hearing Date: April 24, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Assistant Payment Worker.

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits?

Did the Department properly deny Claimant's State Emergency Relief (SER) application?

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. On or about March 11, 2014, Claimant applied for CDC benefits.
3. On or about March 17, 2014, Claimant applied for SER for assistance with prevention of eviction.

4. On March 21, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP case was closing effective May 1, 2014 and her CDC application was denied.
5. On March 21, 2013, the Department sent Claimant a SER Decision Notice denying her application for SER assistance.
6. On March 31, 2014, Claimant requested a hearing disputing the Department's actions in closing her FAP case and denying her CDC and SER applications.

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.

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.

Additionally, Claimant requested a hearing concerning the closure of her FAP case, the denial of her CDC application and the denial of her SER application. The Department did not provide any applicable notices with its hearing packet. Copies of the relevant notices were requested and received after the hearing.

FAP

At the hearing, the Department testified that, based on requested verifications it received from Claimant's employer on March 31, 2014, Claimant's FAP case had been reinstated. However, the eligibility summary provided by the Department did not show

that the case was reinstated. Claimant denied receiving any notice concerning her FAP case other than the March 21, 2013 Notice of Case Action to which her request for hearing was tied. The March 21, 2013 Notice of Case Action notified Claimant that her FAP case was closing effective May 1, 2014 because her net income exceeded the net income limit applicable to her group size.

The Department did not present any evidence concerning the calculation of Claimant's FAP eligibility. The Notice of Case Action showed that in calculating Claimant's FAP eligibility the Department used \$2064 as Claimant's gross monthly earned income and \$645 as her gross monthly unearned income. However, at the hearing the Department acknowledged that the \$645 in monthly unearned income was Claimant's disability income and it received verification that Claimant had stopped receiving disability payments as of February 21, 2014. Therefore, the Department improperly included unearned income in the calculation of her FAP eligibility.

Furthermore, although the evidence at the hearing established that Claimant had notified the Department that she was returning to work in late March 2014 and the Department testified that it received a verification of employment from Claimant's employer, the Department did not present any evidence showing the information it used to calculate Claimant's earned income. See BEM 505 (July 2013), pp. 5-8. As such, the Department failed to satisfy its burden of showing that it properly calculated the earned income.

Because the Department improperly considered unearned income in calculating Claimant's FAP eligibility and could not establish the basis for the determination of her earned income, the Department failed to satisfy its burden acted in accordance with Department policy when it closed Claimant's FAP case.

CDC

The March 21, 2014 Notice of Case Action shows that the Department denied Claimant's CDC application because she lacked a need for such benefits and because her income exceeded the income limit for the program.

As discussed above, the Department improperly included disability income Claimant was no longer receiving as of February 21, 2014 in the calculation of her gross monthly income and it failed to satisfy its burden of showing that it properly calculated Claimant's gross monthly earned income. As such, the Department failed to act in accordance with Department policy when it denied Claimant's CDC application for excess income. See BEM 525 (July 2013), pp. 1-2.

The March 21, 2013 Notice of Case Action shows that the Department also denied Claimant's CDC application for lack of need. To be eligible for CDC benefits, an applicant must establish a need permitted under Department policy. BEM 703 (July 2013), p. 1. Employment is an acceptable need. BEM 703, pp. 1, 4. Employment must be verified at application unless there is a verification of employment in the case record from the client's current employer that is less than 12 months old. BEM 703, p. 13.

In this case, the Department acknowledged that Claimant's employer submitted a verification of employment on March 31, 2014 showing that Claimant was employed. Because Claimant informed her worker that the employer had erred concerning her start date, the worker called the employer and verified that Claimant was in training on March 26 and March 27, 2014 and began employment on March 29, 2013. Because Claimant established a CDC need based on employment, the Department did not act in accordance with Department policy when it denied Claimant's March 2014 CDC application for lack of need.

SER Denial

The March 21, 2014 SER Decision Notice notified Claimant that she was not eligible for SER assistance because her housing was not affordable. Housing affordability is a condition of eligibility for SER benefits for housing assistance. ERM 303 (October 2013), p. 4; ERM 207 (March 2013), p. 1. Housing is affordable if a client's rent obligation does not exceed 75% of the client's group's total net countable income (with adjustments to the percentage made based on the client's rental responsibility for utilities). ERM 207, pp. 1, 2, 3. To determine a client's countable income, the Department considers the income the client actually received, or expected to receive, in the 30-day period beginning on the date the local office received a signed application. BEM 206 (October 2013), p. 1.

In this case, the Department failed to present any evidence concerning the calculation of the affordability of Claimant's housing. It appears that Claimant filed her application on March 17, 2014, and, as such, her 30-day countable period would run until April 16, 2014. Thus, the Department had to consider Claimant's income during this period, and the evidence in this case showed that Claimant would receive her first paycheck from her reengagement in employment on April 11, 2014. Therefore, Claimant had income during the 30-day countable period at issue. Because the Department did not establish what information it used to calculate housing affordability, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the SER application.

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 did not act in accordance with Department policy when it closed Claimant's FAP case and denied her CDC and SER applications.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

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:

1. Reinstate Claimant's FAP case effective May 1, 2014;
2. Recalculate Claimant's FAP budget for May 1, 2014 ongoing;
3. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from May 1, 2014;
4. Reregister and reprocess Claimant's March 2014 CDC and SER applications;
5. Issue supplements to Claimant's providers for CDC and SER benefits Claimant was eligible to receive but did not based on the application dates;
6. Notify Claimant in writing of its FAP, CDC and SER decisions.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 30, 2014

Date Mailed: April 30, 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:

2014-34015/ACE

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

ACE/tlf

cc:

