

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

IN THE MATTER OF:



Reg. No.: 201435090
Issue No(s): 1001; 3001; 6002
Case No.: [REDACTED]
Hearing Date: May 21, 2014
County: Wayne (57)

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 May 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED], Family Independence Manager, and [REDACTED] [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly close Claimant's Family Independence Program (FIP) case?

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

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 FIP and FAP benefits.
2. On February 24, 2014, Claimant filed an application for CDC benefits indicating a need due to employment, and she included paystubs with her application.

3. On March 26, 2014, the Department sent Claimant a Verification Checklist (VCL) requesting that she submit a Child Care Provider Verification, DHS-4025, completed by her provider by April 7, 2014.
4. On April 10, 2014, the Department sent Claimant a Notice of Case Action reducing her FAP benefits, closing her FIP case, and denying her CDC application.
5. On April 17, 2014, Claimant filed a request for hearing disputing the Department's actions.

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).

Claimant requested a hearing concerning the denial of her CDC application, the reduction of her FAP benefits and the closure of her FIP case.

FAP Benefit Calculation

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

In the April 10, 2014 Notice of Case Action, the Department notified Claimant that her FAP benefits would decrease to \$74 monthly beginning May 1, 2014. At the hearing, Claimant pointed out that, before she received the April 10, 2014 Notice of Case Action reducing her FAP benefits, she received a March 26, 2014 Notice of Case Action notifying her that her FAP benefits were approved for \$347 monthly for the period from December 1, 2013 and May 31, 2014. The Department explained that the March 26, 2014 Notice did not include the earned income that Claimant reported in February 2014 and when the Department subsequently updated her FAP budget to include this income, it sent the updated Notice of Case Action reducing the FAP benefits to \$74. The Department provided a FAP net income budget showing the calculation of Claimant's FAP benefits that was reviewed with Claimant at the hearing.

In this case, the Department testified that it relied on three paystubs Claimant submitted in determining her gross monthly income: (i) \$781.20 received on January 23, 2014; (ii) \$806.16 received on February 6, 2014; and (iii) \$814.56 received on February 20, 2014. Because Claimant was paid biweekly, under Department policy her average biweekly pay is multiplied by 2.15 to arrive at gross monthly income. BEM 505 (July

2013), pp. 7-8. Applying this standard results in gross monthly income of \$1721, consistent with the amount listed on the budget.

Based on a group size of two and earned income of \$1721, under Department policy Claimant's FAP group was eligible for the following deductions from its gross income:

- a standard deduction of \$151 based on the two-person group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an earned income deduction of \$345, which is 20% of Claimant's gross monthly earned income, rounded up to the next full dollar (BEM 556, p. 3);
- an excess shelter deduction of \$315, which takes into account Claimant's monthly housing expenses of \$374 and the \$553 heat and utility standard that applies in this case due to a change reported prior to May 1, 2014 (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- verified expenses for child care and child support and medical expenses in excess of \$35 for senior/disabled/veteran (SDV) members of the household (BEM 554, p. 1).

Claimant confirmed that she had no child support expenses and no medical expenses. While Claimant indicated she had day care expenses, the Department responded that it was not provided with any verified child care expenses. The fact that Claimant submitted a CDC application would not be sufficient to put the Department on notice that she had already incurred child care expenses. See BEM 554, p. 8. Claimant is advised that she may provide verified child care expenses to the Department for consideration in future FAP budgets.

Based on the information available to the Department at the time the budget was prepared, the Department properly reduced Claimant's \$1721 gross income by the \$151 standard deduction, the \$345 earned income deduction, and a \$315 excess shelter deduction. This results in monthly net income of \$910. Based on net income of \$910 and a FAP group size of two, the Department acted in accordance with Department policy when it concluded that Claimant was eligible for monthly FAP benefits of \$74. BEM 556; RFT 260 (December 2013), p. 12.

FIP Case Closure

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Although the April 10, 2014 Notice of Case Action notified Claimant that her FIP case would close effective May 1, 2014 because the certification period has ended for the program and there were not eligible children in the group, at the hearing the Department testified that Claimant's FIP case actually closed due to excess income.

In order to receive FIP benefits, the Department must determine that financial need exists. BEM 518 (July 2013), p. 1; BEM 515 (July 2013), p. 1. Financial need is established, in part, when the client's certified group passes the Issuance Deficit Test. BEM 518, p. 1. A client passes the Issuance Deficit Test if the client's certified group's payment standard exceeds the group's countable budget income by at least \$10. BEM 518, pp. 2-3. The FIP monthly assistance payment standard for a group size of two, Claimant's FIP group size, is \$403. BEM 210 (July 2013), p. 5; RFT 210 (December 2013), p. 1.

Gross earned income is considered in determining a FIP group's income. BEM 501 (January 2014), p. 7. As discussed above, Claimant's gross monthly earned income is \$1721. BEM 505 (July 2013), pp. 7-8. In calculating an ongoing recipient's countable income for FIP purposes, the Department deducts \$200 from her earnings, then an additional 50% of her remaining earning, as long as the total disregard does not exceed the total countable earnings. BEM 518, p. 5. Claimant's countable income after applying this deduction is \$760. Because \$760 exceeds the \$403 monthly assistance payment standard, Claimant is not eligible for FIP. Thus, the Department acted in accordance with Department policy when it closed Claimant's FIP case.

CDC Application Denial

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 April 10, 2014 Notice of Case Action notified Claimant that her CDC application was denied because she failed to verify eligible provider/care arrangement. Before a CDC case can open, a CDC applicant must verify the children in care, the date care began, where care is provided, and the provider's relationship to the children with the DHS-4025, Child Care Provider Verification. BEM 702 (July 2013), p. 2. This form must be signed by both the parent and all provider types (centers, homes, unlicensed). BEM 702, p. 2. The client is responsible for obtaining any requested verifications needed to determine eligibility, but the Department must notify the client what verification are needed through a Verification Checklist, DHS-3503. BEM 702, p. 1.

In this case, the Department established that it sent Claimant a VCL on March 26, 2014 requesting a completed DHS-4025, Child Care Provider Verification, by April 7, 2014. The Department credibly testified that it did not receive a completed DHS-4025. Although Claimant contended that she had provided the completed DHS-4025 with her February 24, 2014 application, this testimony was inconsistent with her earlier testimony that she provided the document just before the April 7, 2014 VCL due date. The Department testified that it received only the paystubs with the application and sent the VCL to Claimant requesting the DHS-4025 because it did not have a completed DHS-4025 from Claimant. Although Claimant denied receiving the VCL, it was sent to her at the address she verified

on the record and there was no evidence that she did not receive any other documents from the Department. Under the evidence presented, Claimant failed to establish that she provided a completed DHS-4025 to the Department. Thus, the Department acted in accordance with Department policy when it denied the CDC 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 acted in accordance with Department policy when it reduced Claimant's FAP benefits, closed her FIP case, and denied her CDC application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


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

Date Signed: May 28, 2014

Date Mailed: May 28, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-35090/ACE

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/tif

cc:

