

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

IN THE MATTER OF:



Reg. No.: 14-005228
Issue No.: 3008; 6001
Case No.:
Hearing Date: July 28, 2014
County: WAYNE-15 (GREYDALE)

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 July 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included . Participants on behalf of the Department of Human Services (Department) included , APW.

ISSUE

Due to excess income, did the Department properly deny the Claimant's application close Claimant's case reduce Claimant's benefits for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input checked="" type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | |

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 applied for received:
 FIP FAP MA SDA CDC
benefits.
2. On June 23, 2014, the Department denied Claimant's application closed Claimant's case reduced Claimant's benefits due to excess income.

3. On June 23, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On June 23, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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.

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.

When determining eligibility for FAP benefits, the household's total income must be evaluated. All earned and unearned income of each household member must be included unless specifically excluded. BEM, Item 500.

In the current case, the Department failed to present evidence of claimant's current FAP budget. The Department must provide evidence supporting claimant's current FAP calculation, as well as the income used to support that budget, at the hearing. Case action notices are not budgets, and do not suffice as evidence of correct FAP budget calculation. As such, the Department has failed to meet its burden of proof in showing that the current action was correct, and must recalculate the budget in question.

Furthermore, claimant testified that the paychecks submitted with their redetermination were not regular pay, and claimant had increased hours during the short time period in question.

Income is only to be included in prospective budgeting only if it accurately reflects the normal income received by the claimant. Income that includes overtime should be examined to determine whether the income is artificially higher during the period in

question. The Department should ask the claimant whether the income submitted for consideration is reflective of their current income. BEM 505.

The paychecks submitted contain overtime pay that may skew the results of prospective budgeting if the overtime is not reflective of claimant's current pay. Furthermore, there is no evidence that the Department inquired as to whether the overtime pay was normal.

Therefore, as no budgets were submitted, and as the submitted paychecks may not be representative of claimant's actual prospective income, the undersigned holds that the Department has not met its burden of proof in showing that claimant's income was properly calculated.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

failed to satisfy its burden of showing that it acted in accordance with Department policy when it reduced claimant's FAP benefits and closed the CDC case.

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. Recalculate claimant's FAP benefits and remove the negative action on claimants' CDC case.
2. Make determinations as to claimant's correct prospective countable income.



ROBERT J. CHAVEZ
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 12, 2014

Date Mailed: August 12, 2014

RJC/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

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

cc:

