

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

IN THE MATTER OF:



Reg. No.: 14-006147
Issue No.: 3008;6002
Case No.: [REDACTED]
Hearing Date: July 31, 2014
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits and calculate the amount of her Food Assistance Program (FAP) 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. In April 2014, Claimant submitted an application for CDC benefits.
2. On May 12, 2014, the Department sent Claimant a Verification Checklist (VCL) instructing her to submit proof of her CDC provider assignment by May 22, 2014. (Exhibit 1)
3. On May 20, 2014, Claimant submitted a CDC Provider Verification form that did not have a provider ID number or the date for which care was to begin listed. (Exhibit 2)

4. On June 3, 2014, the Department sent Claimant a Notice of Case Action informing her that CDC was denied on the basis that she failed to return verification of eligible provider arrangement by the due date. (Exhibit 4)
5. Claimant was an ongoing recipient of FAP benefits.
6. The June 3, 2014, Notice informed Claimant that effective July 1, 2014, her FAP benefits would be decreased to \$314. (Exhibit 4)
7. Claimant was not in agreement with the Department's calculation of her FAP benefits.
8. On June 13, 2014, Claimant requested a 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).

CDC

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2014), p.1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 2-3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to CDC cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, p.6. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it.

BAM 130, p. 6. For CDC cases, if the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit at least once. BAM 130, p. 6.

In this case, the Department testified that Claimant's CDC application was denied on the basis that the CDC Provider Verification form she submitted on May 20, 2014, was missing the provider ID number and the date care began. (Exhibit 2). The Department stated that although she submitted the form prior to the due date, it contained insufficient information. At the hearing, Claimant testified that she completed the form and filled out all of the information she had available, including the provider name, address and other information. Claimant stated that although her CDC provider did have a provider ID number at the time, she simply forgot to fill that box in on the form prior to submitting it to the Department. Claimant indicated that she did not know what dates to put in the date care began field, as she could not know when child care was to begin.

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 because Claimant did not indicate a refusal to provide the verification and made a reasonable effort to submit the verifications prior to the due date, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application.

FAP

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.

Additionally, all countable gross earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (July 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2014), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5.

A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 7. Income received weekly is converted to a standard amount by multiplying the average of the weekly paychecks by the 4.3 multiplier. BEM 505, pp. 7-8. The Department is to apply a 20% earned income deduction to Claimant's gross countable earned income. BEM 550 (February 2014), p. 1.

At the hearing, the Budget Summary from the June 3, 2014, Notice of Case Action was reviewed. (Exhibit 4). The Department testified that Claimant had earned income of \$1884; however, the Department could not identify what income amounts it relied on in making that determination. Therefore, the Department failed to establish that it properly calculated Claimant's earned income.

The Department determined that Claimant had unearned income of \$735 which it testified came from SSI of \$721 and a \$14 SSP income payment. Claimant confirmed that the amounts relied on by the Department were correct.

The budget shows that the Department properly applied the \$190 standard deduction applicable to Claimant's confirmed group size of five. Although the Department properly considered Claimant's confirmed housing expenses of \$600, the Department acknowledged that it failed to apply the \$553.00 standard heat and utility deduction available to all FAP recipients in determining the excess shelter deduction to Claimant's FAP budget. RFT 255 (December 2013), p 1; BEM 554 (May 2014), pp. 12-15.

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 after further review of the evidence presented, the because of the errors in the calculation of Claimant's earned income and excess shelter deduction, the Department did not act in accordance with Department policy when it determined that Claimant was eligible to receive FAP benefits in the amount of \$314 monthly, effective July 1, 2014.

DECISION AND ORDER

Accordingly, the Department's CDC and FAP decisions are 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. Register and process Claimant's April 2014 CDC application to determine her eligibility for CDC benefits as of the application date;
2. Issue supplements to Claimant and her CDC provider for any CDC benefits they were entitled to receive but did not from the application date, ongoing;
3. Recalculate Claimant's FAP budget for July 1, 2014, ongoing;

4. Issue supplements to Claimant for any FAP benefits that she was entitled to receive from July 1, 2014, ongoing; and
5. Notify Claimant in writing of its decision.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/5/2014**

Date Mailed: **8/6/2014**

ZB / tlf

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:

