

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

IN THE MATTER OF:

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Reg. No.: 14-007924
Issue No.: 2000; 3008; 6001
Case No.: ██████████
Hearing Date: AUGUST 27, 2014
County: WAYNE-DISTRICT 31

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 August 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist, and ██████████, Assistance Payment Supervisor.

ISSUE

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

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. On July 7, 2014, Claimant applied for FAP and CDC benefits.
2. On July 18, 2014, the Department sent Claimant a Notice of Case Action denying her CDC application.
3. On July 22, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for FAP benefits of \$161 for July 7, 2014 to July 31, 2014 and \$218 for August 1, 2014 ongoing.

4. On July 28, 2014, Claimant filed a request for hearing disputing the Department's actions concerning FAP, CDC and Medical Assistance (MA).

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 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.

Additionally, Claimant requested a hearing concerning FAP, CDC and MA. At the hearing, Claimant testified that the MA issue had been resolved to her satisfaction and she wished to withdraw her July 28, 2014 hearing request with respect to the MA issue. Accordingly, Claimant's hearing request concerning the MA issue is dismissed. The hearing proceeded to address Claimant's concerns regarding the calculation of her FAP benefits and the denial of her CDC application.

FAP Calculation

The July 22, 2014 Notice of Case Action notified Claimant that she was eligible for FAP benefits of \$161 for July 7, 2014 to July 31, 2014 and \$218 for August 1, 2014 ongoing.

Claimant first disputed the beginning date of her FAP eligibility. For eligible FAP clients, the Department prorates FAP benefits for the month of application, beginning with the date of application. BAM 115 (July 2014), p. 25. For FAP applications filed electronically after the close of business (such as weekends, holidays or after 5 pm. EST on business days), the date of application is the following business day. BAM 110 (July 2014), p. 5.

Claimant contended that she submitted her online application prior to July 7, 2014. However, she could not identify what date her application was submitted and had no documentation in support of her position that her application was submitted prior to July 7, 2014. The Department testified that it received Claimant's online application on July 7, 2014 and it was registered July 9, 2014. Because July 7, 2014 is a non-holiday Monday and the Department presented no evidence that the application was submitted after hours, July 7, 2014 serves as the date of application and benefits are prorated from this date. However, a review of the Department's calculation of Claimant's prorated FAP benefits for the month of July 2014 as shown on the July 22, 2014 Notice of Case Action shows that the Department did not prorate FAP benefits from July 7, 2014. Therefore, the Department did not act in accordance with Department policy when it failed to prorate Claimant's July 2014 FAP benefits as of July 7, 2014.

With respect to the calculation of Claimant's FAP benefits, the Department provided a FAP net income budget that was reviewed with Claimant at the hearing. The budget shows gross monthly earned income of \$1974. In prospecting income based on past income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month and should discard any pay that is unusual and does not reflect the normal, expected pay amounts. BEM 505 (July 2014), p. 5. If income received in the past 30 days is not a good indicator of future income, and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, the Department must use income from the past 60 or 90 days for fluctuating or irregular income. BEM 505, pp. 5-6. Whenever possible, the Department is required to seek input from the client to establish an estimate. BEM 505, p. 2.

In this case, the Department testified that it relied on Claimant's gross weekly pay for June 6, 2014 to July 3, 2014 to determine her gross monthly income. Based on the paycheck amounts presented, the June 13, 2014 \$779.53 paycheck, which is clearly unusual, would be discarded in calculating gross monthly income. When the average of the remaining paycheck amounts is multiplied by 4.3 in accordance with Department policy, it is unclear how the Department arrived at \$1974. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in calculating Claimant's gross earned monthly income.

Claimant's FAP budget also showed monthly unearned income of \$370, which the Department testified was Claimant's monthly child support. To determine gross monthly child support income, the Department must use the average of child support payments received in the past three calendar months unless changes are expected. BEM 505, p. 3. Amounts that are unusual and not expected to continue are not considered. BEM 505, p. 3.

In this case, the Department testified that it relied on the child support Claimant received in April 2014, May 2014 and June 2014 to calculate her monthly child support income. Claimant confirmed that the monthly variations in income for April, May and June 2014

were not uncommon, and she did not allege that changes were anticipated. The average child support received based on based on amounts received in April, May and June 2014 was \$370. Therefore, the Department acted in accordance with Department policy when it calculated Claimant's monthly child support income.

The deductions to income on the budget were also reviewed. Claimant acknowledged that there were four members of her FAP group and that there were no senior/disabled/veteran (SDV) members in the household. Groups with earned income and no SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction up to \$478, which is based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.
- Earned income deduction equal to 20% of the group's earned income.
- A standard deduction based on the FAP group size.

BEM 554 (May 2014), p. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (December 2013), p. 1.

The budget showed a standard deduction of \$162, the applicable standard deduction based on her four-person group size. RFT 255, p. 1. Claimant confirmed that she had no child support expenses. She also confirmed that she paid monthly rent of \$747.50, and the budget shows that the Department applied the \$553 heat and utility standard, the most favorable standard applicable to a client. BEM 554, pp. 14-22.

The budget did not show any dependent care expenses. However, the Department acknowledged that Claimant submitted verification that she had made payments for child care with the other verifications she submitted to the Department on July 18, 2014. Because the Department denied Claimant's application for CDC benefits and it was aware that she was employed and paying for child care, the Department should have been aware that Claimant's day care expenses would continue. Therefore, the Department did not act in accordance with Department policy when it failed to consider any dependent care deduction to Claimant's FAP calculation. BEM 554, pp. 7-8.

Therefore, because the Department improperly prorated FAP benefits from a date after July 7, 2014 and excluded a dependent care deduction, the Department did not act in accordance with Department policy when it calculated Claimant's monthly FAP benefits.

Denial of CDC Application

The July 18, 2014 Notice of Case Action denied Claimant's CDC application with respect to [REDACTED] and [REDACTED] because they did not meet CDC requirements and with respect to [REDACTED] because Claimant did not have need for child day care services due to employment, education or family preservation reasons. The Department acknowledged that Claimant was employed and presented no evidence concerning

██████ and ██████ lack of eligibility for CDC. Nevertheless, the Department contended that Claimant's CDC application was properly denied because of excess gross income.

Although the Department did not establish the gross income limit applicable to Claimant's group, based on the four members to Claimant's CDC group (Claimant and her three minor children), the applicable CDC gross income limit is \$2367. RFT (December 2013), p. 1. The Department did not present any CDC budget showing the calculation of Claimant's gross income for CDC purposes. Therefore, it failed to satisfy its burden of showing that Claimant's gross income exceeded the applicable gross income limit for CDC eligibility.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Claimant's FAP benefits and when it denied her CDC application.

DECISION AND ORDER

Claimant's hearing request concerning the MA issue is DISMISSED.

The Department's FAP and CDC 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. Reregister and reprocess Claimant's July 7, 2014 CDC application;
2. Recalculate Claimant's FAP budget for July 7, 2014 ongoing;
3. Issue supplements to Claimant (or her provider, as applicable) for any CDC and/or FAP benefits she was eligible to receive but did not from July 7, 2014 ongoing; and

4. Notify Claimant in writing of its decision.



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

Date Signed: **9/3/2014**

Date Mailed: **9/3/2014**

ACE / 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

