

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-013650
Issue No.: 2001, 3001, 6001
Case No.: [REDACTED]
Hearing Date: November 13, 2014
County: Genesee-District 6

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 November 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

SSUE

Did the Department properly deny the Claimant's application for Food Assistance Program (FAP), Child Development and Care (CDC), and Medical Assistance (MA) benefits based on income?

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 August 8, 2014, the Claimant applied for Child Development and Care (CDC) benefits.
2. The Claimant receives monthly earned income in the gross monthly amount of \$ [REDACTED]
3. The Claimant's husband receives monthly earned income in the gross monthly amount of \$ [REDACTED]
4. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED]
5. The Claimant receives monthly Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED]
6. The Claimant receives monthly unemployment compensation benefits in the gross monthly amount of \$ [REDACTED]

7. On September 11, 2014, the Department denied the Claimant's Child Development and Care (CDC) application.
8. On October 1, 2014, the Department received the Claimant's request for a hearing protesting the denial of Food Assistance Program (FAP), Child Development and Care (CDC), and Medical Assistance (MA) benefits.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (July 1, 2013), pp 6-7.

The Claimant applied for Child Development and Care (CDC) benefits on August 8, 2014. The Claimant reported that she was employed for minimum wage and the Department determined that she receives a monthly income of \$ [REDACTED] which was determined by multiplying a rate of 8.15 by 72 hours and the 2.15 bi-weekly conversion factor. The Claimant's husband received monthly earnings of \$ [REDACTED] which was determined by multiplying his \$ [REDACTED] hourly rate by 40 hours weekly, and the 4.3 conversion factor. The Claimant receives monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$ [REDACTED] and Supplemental Security Income (SSI) in the gross monthly amount of \$ [REDACTED] and unemployment compensation in the gross monthly amount of \$ [REDACTED]. The combined monthly countable household income for the benefit group is \$ [REDACTED] and the limit to receive Child Development and Care (CDC) benefits is \$ [REDACTED] Department of Human Services Reference Table Manual (RFT) 270 (August 1, 2014). On September 11, 2014, the Department notified the Claimant that it had denied her Child Development and Care (CDC) application.

The Department determined the Claimant's eligibility for the Food Assistance Program (FAP) by reducing the earned income of the Claimant and her husband by the 20% earned income deduction, and adding it to her unearned income for a monthly post earned income deduction of \$ [REDACTED]. The Claimant's adjusted gross income of \$ [REDACTED] was determined by subtracting the \$ [REDACTED] standard deduction, \$ [REDACTED] of reported dependent care expenses, and \$ [REDACTED] child support expenses. The Claimant has monthly housing expenses of \$ [REDACTED] and is eligible for the \$ [REDACTED] standard heat and utility deduction. The sum of these shelter expenses is less than 50% of her adjusted gross income and she is not eligible for an excess shelter deduction. Therefore, the Claimant's net income is the same as her adjusted gross income, which exceeds the net income limit of \$ [REDACTED] to participate in the Food Assistance Program (FAP). Department of Human Services Reference Table Manual (RFT) 260 (December 1, 2013).

The Claimant and her husband receive a combined countable earned income in the gross monthly amount of \$ [REDACTED]. Based on this income, the Department determined that their prospective annual income was expected to exceed the \$ [REDACTED] annual income limit for a group of five. Therefore, the Department denied Medical Assistance (MA) for the Claimant's husband.

The Claimant testified that the Department should not have counted her unemployment compensation benefits when determining her eligibility to receive benefits. The Claimant testified that she may not have been entitled to receive these benefits, although she has requested a hearing on that issue.

This Administrative Law Judge finds that the Department was acting in accordance with policy when it considered the Claimant's unemployment benefits to be countable unearned income for assistance based on the best known information at that time.

The Claimant argued that the Department failed to consider her student loan payments and automobile insurance when determining her net countable income.


The Department considers all income to be countable unless excluded by policy, or can be reduced by allowable deductions. Department policy does not allow these deductions. Furthermore, Administrative Law Judges have no authority to make exceptions to the Department policy set out in the program manuals. Administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Department determined the Claimant's countable earned income based on the prevailing minimum wage at the time her eligibility was determined. Later it was discovered that the Claimant actually is paid at a higher pay rate. This Administrative Law Judge finds this discrepancy in countable income determination to be harmless error and that the Claimant has failed to establish eligibility to receive benefits.

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 denied Medical Assistance (MA) for the Claimant's husband, as well as Child Development and Care (CDC) and Food Assistance Program (FAP) benefits based on the group's countable income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

KS/las

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:

