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

IN THE MATTER OF:

[redacted]

Reg. No.: 14-014758
Issue No.: 3008, 6008
Case No.: [redacted]
Hearing Date: November 26, 2014
County: Genesee (6) (Clio Rd)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [redacted].

ISSUE

Did the Department properly determine Claimant's eligibility for Food Assistance Program (FAP) and 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 on-going recipient of FAP and CDC.

2. On September 5, 2014, Claimant submitted paystubs and requested additional CDC benefits.

3. On October 8, 2014, the Department sent Claimant a Notice of Case Action (NCA) informing her that her FAP was closed effective November 1, 2014, and her CDC was closed effective November 2, 2014. (Exhibit 1 Pages 7-10.)

4. The Department received Claimant's hearing request on October 14, 2014.

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.

Per BEM 505 (7/1/13), p 1,

> "A group's financial eligibility and monthly benefit amount are determined using:
>
> - Actual income (income that was already received).
> - Prospected income amounts (not received but expected).
>
> Only countable income is included in the determination; see BEM 500."
>
> "Each source of income is converted to a standard monthly amount, unless a full month's income will not be received; see standard monthly amount in this item."
>
> "For CDC, benefit month is the month in which the pay period ends."

The Department determined Claimant's CDC based upon the reported income Claimant earned. Claimant typically works 40 hours per week, at [redacted] per hour. Her normal gross income would thus be [redacted] weekly. For the bi-weekly pay period ending August 8, 2014, Claimant had gross income of [redacted], including more than 15 hours of overtime, and an incentive bonus of [redacted]. (Exhibit 1 Page 1.) For the bi-weekly period ending August 28, 2014, Claimant's gross income was [redacted], which included her normal 80 hours, a payout for unused vacation time of [redacted], and [redacted] in overtime. Her total gross income for the four weeks was [redacted].

Claimant's average bi-weekly income is [redacted]. That equates to [redacted] per month when the bi-weekly average is multiplied by 2.15. Per RFT 270, (8/1/14) if a group of three has income of [redacted] or more per month, the group is not eligible for any CDC. As unfortunate as her circumstances are, the Department followed the policy.

Similarly, RFT 260 (10/1/14) is the table that details the FAP available based upon income and group size. For a group of three, once the group's net income exceeds [redacted] per month, the group is not eligible for FAP. There are deductions allowed from the earned income when the FAP budget is calculated. One of the deductions is for child care, which the Department budgeted at [redacted] per month. Claimant testified that, because the Department did not provide her with CDC for the period of September 21, 2014, through November 1, 2014, she incurred a debt with her child care provider of [redacted], or an average of [redacted] per week over the six-week period. The figures used by the Department are not supported by the evidence. While it is possible that the group's income still exceeds the limit for FAP eligibility, the Department must base its decision on correct data. It denied her CDC, but then did not account in her FAP budget for the CDC expense that she incurred.

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 determined Claimant was not eligible for CDC but it failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Claimant was not eligible for FAP.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to CDC and **REVERSED IN PART** with respect to FAP.

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. Redetermine Claimant's FAP eligibility effective September 21, 2014.

2. Issue a supplement to Claimant for any benefits improperly not issued.

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

Date Signed: **12/2/2014**

Date Mailed: **12/2/2014**

DJ/jaf

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 48909-8139

cc: [redacted]