

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000410
Issue No.: 3008, 6001
Case No.: [REDACTED]
Hearing Date: May 1, 2014
County: Ingham

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 May 1, 2014 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Eligibility Specialist).

ISSUES

Did the Department properly determine Claimant's Food Assistance Program (FAP) benefits during the month of May, 2014?

Did the Department properly close Claimant's Child Development and Care (CDC) case due to excess 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. Claimant was active for FAP with a group size of 2 and a monthly allotment of \$ [REDACTED]
2. Claimant was active for CDC benefits at all times.
3. On January 21, 2014, the Department received Claimant's completed Verification of Employment (DHS-38) which indicated, among other things, that Claimant worked at [REDACTED] and that Claimant's hours varied depending upon her needs.

4. On March 28, 2014, the Department received Claimant's completed CDC redetermination packet.
5. On April 2, 2014, the Department mailed Claimant a Notice of Case Action (DHS-1605) which, due to excess income, closed her CDC case effective April 20, 2014 and reduced Claimant's monthly FAP allotment to \$ [REDACTED] effective May 1, 2014.
6. Claimant requested a hearing on April 9, 2014 to dispute the FAP reduction and the CDC closure.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

With regard to the FAP issue, the Department representative testified at the hearing that the Department erred when it determined Claimant's FAP benefits for the month of May 1, 2014. The Department representative indicated that a DTMB remedy ticket was required in order to correct Claimant's May, 2014 FAP benefit amount. Accordingly, the Department offered, and Claimant accepted, to take steps to correct the May, 2014 FAP benefits.

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.

For CDC, the Department uses the gross (before deductions) countable, monthly income to determine the amount the department will pay (department pay percent) towards the group's child care costs. BEM 525, p 1 (7-1-2013). CDC program groups in the income eligible group must have gross income that falls within the income scale below to be eligible for subsidy benefits. RFT 270. The Department determines CDC income based on program group size and gross income (effective February 1, 2003). RFT 270.

With regard to the CDC issue, the Department contends that Claimant's redetermination indicated that she received earned income along with UCB which added together indicated that she was excess income. Claimant, on the other hand, contends that her employer did not correctly indicate her weekly hours of employment. The Department, according to Claimant, erred when it found that Claimant worked 20-40 hours during the month of March, 2014.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department indicates that Claimant, during the relevant time period, received unemployment compensation benefits (UCB) and earned income from employment for a total of \$ [REDACTED] per month. However, the record contains a letter dated March 20, 2014 from Claimant's employer (Arcadia Home Care and Staffing) which indicates that Claimant does not necessarily work 20-40 hours per week, but that her hours vary depending upon their client needs. The records contain Claimant's employment checkstubs from [REDACTED] from March 7, 14 and 21.

Here, notwithstanding Claimant's employer's submissions, the Department properly determined Claimant's earned and unearned income based on the objective documentation in the record (i.e., checkstubs and Bridges UCB reports). Claimant's monthly earned income was properly \$ [REDACTED] and her unearned income was \$ [REDACTED] at the time. Claimant has not provided documentation to dispute these numbers. The total countable income was \$ [REDACTED] which is greater than the \$ [REDACTED] income limit for 2 individuals under RFT 270.

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 closed Claimant's CDC case based on excess income.

The Administrative Law Judge also finds that the Department did not act in accordance with Department policy with regard to Claimant's May, 2014 FAP benefits.

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. If not already done, the Department shall request a remedy ticket to correct Claimant's May, 2014 FAP allotment amount.
2. With regard to FAP, the Department shall provide Claimant with retroactive and/or supplemental benefits but only to the extent required by policy.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

Date Mailed: **5/8/2014**

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