

**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.: 14-007448
Issue No.: 3008; 6008
Case No.: ██████████
Hearing Date: September 3, 2014
County: Wayne-District 19

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 September 03, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's 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. On June 9, 2014, Claimant applied for FAP and CDC benefits.
2. On July 8, 2014, the Department sent Claimant a Notice of Case Action notifying her that she was approved for (i) FAP benefits of \$10 for June 2014 and \$15 monthly for July 1, 2014 ongoing and (ii) CDC benefits on behalf of her son ██████████ beginning July 27, 2014 for 80 hours biweekly at a 70% Department percentage pay rate.
3. On July 18, 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).

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 disputing the Department's calculation of her FAP and CDC benefits.

Claimant established that there were two members of her CDC group and her FAP group: her and her six-year-old son W. BEM 212 (July 2014), p. 1; BEM 205 (July 2013), pp. 1-2. A CDC group with two members is eligible for CDC benefits if the group's gross monthly income is less than \$1607, with the Department providing CDC benefits with a Department pay percent as follows: 95% for gross monthly income between \$0 and \$1496; 90% for gross monthly income between \$1497 and \$1533; 80% for gross monthly income between \$1534 and \$1570; and 70% for gross monthly income between \$1571 and \$1607. RFT 270 (August 2014), p. 1; BEM 703 (April 2014), p. 16; BEM 706 (April 2014), p. 2. A FAP group with two members is eligible for up to \$347 in monthly FAP benefits, with the amount dependent on the group's net income. BEM 556 (July 2013), pp. 5-6; BEM 556 (July 2013), p. 5; RFT 260 (December 2013), p. 1.

The Department did not present a FAP net income or CDC gross income budget. Therefore, the information shown on the July 8, 2014 Notice of Case Action was reviewed with Claimant. The Notice showed that the Department calculated that Claimant had gross monthly earned income of \$1588. The Department testified that this income was based on Claimant's weekly pay for June 6, 2014 to June 27, 2014 (\$360 on June 6, June 13 and June 20 and \$337.50 on June 27). The average of this weekly income, multiplied by 4.3 in accordance with Department policy, results in gross

monthly income *less* than \$1588. BEM 505 (July 2014), pp. 7-8. The Department testified that there was no income received by Claimant's group other than her earned income. Because the Department did not properly calculate Claimant's gross monthly earned income, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated her FAP and CDC eligibility.

During the course of the hearing, it was also noted that Claimant's shelter expenses were not considered in calculating her FAP eligibility. Claimant established that she timely submitted verification of her rent. Therefore, the Department did not act in accordance with Department policy when it excluded Claimant's shelter expenses in calculating her FAP benefits. See BEM 554 (May 2014), pp. 12-14.

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 did not act in accordance with Department policy when it calculated Claimant's FAP and CDC eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is 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. Recalculate Claimant's FAP and CDC budgets for June 9, 2014 ongoing;
2. Issue supplements to Claimant (or Claimant's provider, as applicable) for FAP and/or CDC benefits Claimant was eligible to receive based on the recalculated budgets but did not from June 9, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



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

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

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

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

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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