

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 14-012427
Issue Nos.: 3008, 6001
Case No.: ██████████
Hearing Date: October 22, 2014
County: Wayne (31-Grandmont)

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 October 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██

ISSUE

Did the Department properly implement the order and decision in the Hearing Decision for Register No. 14-007924 mailed on September 3, 2014 (the September 3, 2014, Hearing Decision) reversing the Department?

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 27, 2014, a hearing was held concerning the Department's denial of Claimant's July 7, 2014, application for Child Development and Care (CDC) benefits and the calculation of her Food Assistance Program (FAP) benefits.
2. On September 3, 2014, a Hearing Decision was issued under Registration No. 14-007924, reversing the Department and ordering the Department to (i) reregister and reprocess Claimant's July 7, 2014, CDC application; (ii) recalculate Claimant's FAP budget for July 7, 2014, ongoing; (iii) 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 (iv) notify Claimant in writing of its decision.

3. On September 10, 2014, the Department sent Claimant a Notice of Case Action, notifying her that her FAP benefits were increasing to \$309 monthly effective October 1, 2014.
4. On September 10, 2014, the Department sent Claimant a CDC Client Certificate/Notice of Authorization showing that she was eligible for CDC benefits for her child [REDACTED] from December 29, 2013, to May 31, 2014.
5. On September 16, 2014, Claimant filed a request for hearing disputing the Department's implementation of the September 3, 2014, Hearing Decision.

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).

Claimant requested a hearing because she believed that the Department did not properly implement the September 3, 2014, Hearing Decision reversing the Department's denial of her CDC application and the calculation of her FAP benefits.

CDC

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.

With respect to Claimant's CDC application, the September 3, 2014, Hearing Decision ordered the Department to reregister and reprocess the July 7, 2014, application, issue supplements to Claimant's provider for any CDC benefits Claimant was eligible to receive from July 7, 2014, ongoing; and notify Claimant in writing of its decision.

The evidence at the hearing established that the only child Claimant sought CDC benefits for was her then [REDACTED]. The Department testified that it reprocessed Claimant's application with respect to Claimant's CDC eligibility only for [REDACTED] but found that she was not income-eligible for CDC benefits. However, the Department failed to produce any Notice of Case Action or other documentation sent to Claimant concerning her reprocessed CDC application, contrary to the order in the September 3, 2014, Hearing Decision requiring that Claimant be notified of the results of the reprocessed CDC application. The CDC Authorization Notice the Department sent on September 10, 2014, concerning [REDACTED] for the period December 2013 to May

2014 was not relevant to the July 7, 2014, application and does not address Claimant's eligibility for CDC benefits on behalf of [REDACTED] for July 7, 2014 ongoing.

Furthermore, the Department did not present any CDC budget showing the information it used to calculate Claimant's CDC eligibility and the evidence presented at the hearing does not support the Department's conclusion with respect to Claimant's CDC income-eligibility as of the July 7, 2014, date of application. The evidence established that there were four CDC group members in Claimant's household: Claimant, [REDACTED] (the child for whom care is requested) and [REDACTED] two minor siblings. See BEM 205 (July 2013), p. 1. The CDC gross income limit for a four-person CDC group is \$2,367. RFT 270 (December 2013).

The September 3, 2014, Hearing Decision required the Department to determine Claimant's CDC eligibility **as of the July 7, 2014, application date**. Although the September 3, 2014, Hearing Decision indicated that there was some concern based on the information provided at the hearing regarding the Department's calculation of Claimant's monthly gross income of \$1,974, the Department continued at the current hearing to present \$1,974 as Claimant's gross monthly earned income. The September 3, 2014, Hearing Decision found that, at the time of application, the Department properly calculated Claimant's gross monthly unearned income from child support at \$370. The sum of Claimant's \$1,974 gross monthly earned income and her \$370 child support income is \$2,344, which is below the applicable \$2,367 CDC gross income limit.

Because the Department did not present a budget showing the information used to calculate Claimant's CDC income eligibility **as of July 7, 2014**, and did not establish that it notified Claimant in writing of its decision, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it reprocessed the July 7, 2014, CDC application and denied benefits.

It is noted that, at the hearing, the Department argued that there was an increase in gross monthly child support income based on the child support Claimant received in June, July and August 2014. However, in processing Claimant's eligibility for CDC as of July 7, 2014, the Department was required to consider the average received in the three months prior to the application. BEM 505 (July 2014), pp. 3-4. Changes in Claimant's ongoing child support income would affect ongoing CDC eligibility. BEM 505, p. 4; BEM 703 (April 2014), p. 17.

FAP

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.

In this case, the Department presented a September 10, 2014, Notice of Case Action showing that Claimant's FAP benefits were increased effective October 1, 2014, ongoing after Claimant's day care expenses were included in the budget. However, Claimant was concerned that the Department did not supplement her for any FAP benefits she was eligible to receive from July 7, 2014, the date of her application, to September 30, 2014. The September 3, 2014, Hearing Decision ordered the Department to recalculate Claimant's FAP budget **from July 7, 2014, ongoing** and to issue supplements to Claimant for any FAP benefits Claimant was eligible to receive from July 7, 2014, ongoing.

The September 3, 2014, Hearing Decision concluded that the Department did not act in accordance with Department policy when it failed to consider Claimant's dependent care expenses in calculating Claimant's FAP budget. A client's FAP budget includes a deduction from the household's countable income for unreimbursed dependent care expenses for a child who is a member of the FAP group when such care is necessary to enable a member of the FAP group to work. BEM 554 (May 2014), p. 8. The amount of the deduction is the amount the FAP group is required to pay out-of-pocket but does not have to be paid to be allowed. BEM 554, p. 7.

Claimant had provided verification of day care expenses on July 18, 2014, in connection with her July 7, 2014, application, and at the present hearing Claimant testified that her day care provider charged her \$125 per week to care for her daughter [REDACTED] although she was unable to pay her the full amount due each week. Because Claimant had day care expenses at the time of her application, the Department did not act in accordance with Department policy, or with the September 3, 2014, Hearing Decision, when it failed to consider a deduction for daycare expenses until the October 2014 FAP budget. Claimant was entitled to have her July 7, 2014 ongoing FAP budgets recalculated to include the day care expenses and to FAP supplements if the recalculated budgets showed that she was eligible for greater FAP benefits than she received.

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 and improperly implemented the September 3, 2014, Hearing Decision when it failed to recalculate Claimant's FAP budget and CDC eligibility from July 7, 2014, ongoing.

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. Reregister and reprocess the July 7, 2014, CDC application for July 7, 2014 and ongoing eligibility;
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 CDC and FAP decisions in a DHS-1605 Notice of Case Action.


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

Date Signed: **10/24/2014**

Date Mailed: **10/27/2014**

ACE / pf

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]
[REDACTED]
[REDACTED]