

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-018736
Issue No.: 3001; 6001
Case No.: ██████████
Hearing Date: January 29, 2015
County: MACOMB-20 (WARREN)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 three-way telephone hearing was held on January 29, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearings Facilitator.

ISSUE

Did the Department properly close Claimant's Child Development and Care (CDC) case for excess income?

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits for 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 a CDC and FAP recipient in Macomb County.
2. Claimant was sent a notice of case action on November 24, 2014.
3. This notice of case action denied CDC benefits for a period of January 26, 2014 through August 23, 2014.
4. Claimant's FAP benefits were closed effective December 1, 2014.

5. No notice of case action was sent closing Claimant's CDC benefits effective December 1, 2014, though Claimant's CDC benefits were closed as of that date.
6. The FAP budget used to determine Claimant ineligible for benefits based on excess income did not take into effect Claimant's new dependent care expenses, nor did it factor in a heat/utility standard.
7. On December 3, 2014, Claimant requested an administrative hearing.

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.

The Department argued that Claimant was over income for both the CDC and the FAP benefit programs.

Timely notice is given for a negative action unless policy specifies adequate notice or no notice. See Adequate Notice and for, CDC and FAP only, Actions Not Requiring Notice, in this item. A timely notice is mailed at least 11 days before the intended negative action takes effect. The action is pending to provide the client a chance to react to the proposed action. BAM 220, pg. 4 (2014).

The notice of case action sent on November 24, 2014 did not close Claimant's current CDC benefits, or provide notice thereof; it only denied benefits for a previous time period. As such, the undersigned cannot hold that Claimant received timely notice of the CDC case closure. Because Claimant did not receive timely notice, CDC benefits should not have been closed, and the benefits must be restored retroactive to the date of negative action.

Furthermore, no evidence of income was provided by the Department; as such, the undersigned cannot hold that the Department has met its burden of proof in showing that Claimant was ineligible for CDC benefits. Before any closure can be processed or timely notice generated, the Department must reprocess Claimant's CDC budget.

This reasoning also applies to Claimant's FAP budget; no evidence was presented verifying the income used in Claimant's FAP budget. As such, the Department has failed to meet its burden of proof in showing that Claimant's FAP budget was processed correctly.

Additionally, the FAP budget in question did not take into account any dependent care expenses (of which Claimant would most certainly have if CDC is to be closed), or a heat/utility standard. Claimant alleged heating expenses, which, if true, could affect the FAP budget. No evidence was provided by the Department to show whether or not Claimant's heat/utility standard had been verified. As Claimant's FAP budget appears to have not taken into account this information, the budget is not correct, and must be reprocessed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FAP and CDC benefit cases.

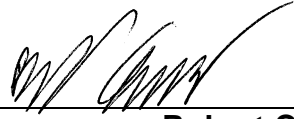
DECISION AND ORDER

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. Reopen Claimant's CDC and FAP benefit cases retroactive to the date of negative action.

2. Reprocess Claimant's CDC and FAP budgets.



Robert Chavez
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/10/2015**
Date Mailed: **2/10/2015**
RJC

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]
[REDACTED]
[REDACTED]
[REDACTED]
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