

**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.: 14-019055
Issue No.: 3008; 6001; 6002
Case No.: ██████████
Hearing Date: February 4, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, DHS caseworker.

ISSUES

Did the Department properly deny Claimant's Child Development and Care (CDC) program application dated October 29, 2014?

Did the Department properly decrease Claimant's Food Assistance Program (FAP) effective January 1, 2015?

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 is an ongoing recipient of FAP benefits.
2. On October 29, 2014, Claimant applied for CDC benefits. See Exhibit 1, p. 1.
3. On November 12, 2014, the Department sent Claimant a Verification Checklist (VCL), which requested verification of Claimant's CDC provider assignment. See Exhibit 1, p. 4. The verification was due back by November 24, 2014. See Exhibit 1, p. 4.

4. Before the VCL due date, Claimant timely submitted the verification request.
5. On December 3, 2014, the Department sent Claimant a Notice of Case Action notifying her that her CDC application was denied effective October 19, 2014, ongoing, due to failure to provide verification of eligible provider/care arrangement. See Exhibit 1, pp. 5-6.
6. On December 3, 2014, the Notice of Case Action also notified Claimant that her FAP benefits decreased to \$763 effective January 1, 2015, due to a change in the shelter expenses and earned income. See Exhibit 1, pp. 6-8.
7. On December 16, 2014, Claimant filed a hearing request, protesting the CDC denial and FAP allotment. See Exhibit 1, pp. 2-3.

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.

Preliminary matter

During the hearing, the Department's hearing summary indicated that it reregistered and reprocessed Claimant's CDC application because Claimant timely submitted her verification. See Exhibit 1, p. 1. The Department indicated the application was again denied for failure to provide a CDC provider assignment because the provider selected has been non-active since May 2014. See Exhibit 1, p. 1. However, Claimant argued that the CDC provider was active at the time of application. There was no date provided in the hearing summary when it reprocessed the application nor did the Department provide any subsequent Notice of Case Action addressing the CDC denial.

Based on the foregoing information and evidence, this Administrative Law Judge (ALJ) lacks the jurisdiction to address the alleged subsequent reprocessing of the CDC application. See BAM 600 (October 2014), pp. 4-6. In fact, it is unclear if the Department actually reprocessed the application as the Department failed to provide any evidence of a subsequent Notice of Case Action addressing the CDC denial. See BAM 220 (October 2014), pp. 1-3 (Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action). Therefore, this ALJ will only address Claimant's CDC denial dated December 3, 2014, based on a failure to comply with the verification requirements. See Exhibit 1, Notice of Case Action, pp. 4-8.

CDC

The Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (October 2014), p. 6. For CDC only, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. The Department sends a negative action when the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. See also BEM 702 (August 2014), pp. 1-2. Additionally, the Department verifies the children in care, the date care began, where care is provided and the provider's relationship to the children with the DHS-4025, Child Development and Care Provider Verification. BEM 702, p. 2.

Based on the foregoing information and evidence, the Department improperly denied Claimant's CDC application effective October 19, 2014, in accordance with Department policy. It was not disputed that Claimant timely submitted the CDC provider assignment (DHS-4025) before the verification due date. See Exhibit 1, p. 1. Because Claimant timely submitted the verification before the due date, the Department improperly denied Claimant's CDC application effective October 19, 2014. See BAM 130, p. 6 and BEM 702, pp. 1-2. As such, the Department will reprocess and reregister Claimant's CDC application dated October 29, 2014.

FAP benefits

On December 3, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$763 effective January 1, 2015. See Exhibit 1, pp. 6-8. At the time of the hearing request, Claimant acknowledged that she requested the hearing to dispute the reduction in FAP benefits.

It was not disputed that the certified group size is six and that no group members are senior/disabled/disabled veteran (SDV) members. The Department presented the January 2015 FAP budget for review from the Notice of Case Action dated December 3, 2014. See Exhibit 1, pp. 5-8.

The Department calculated Claimant's gross earned income to be \$1,435. Exhibit 1, p. 6. The Department was unable to provide evidence and/or testimony as to how it calculated Claimant's gross earned income. In response, Claimant testified that her gross earned income fluctuated between \$800 to \$1000 for the benefit months of December 2014 and January 2015. Due to the ongoing issues Claimant had with her CDC application, she indicated that her DHS caseworker was aware of her above income.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (July 2014), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 7. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, pp. 6-7.

Based on the above information, the Department failed to satisfy its burden of showing that it properly calculated Claimant's earned income. The Department was unable to provide testimony or evidence of how it calculated Claimant's income. Moreover, the Department failed to rebut Claimant's testimony that her gross earned income is lower than the amount the Department budgeted. As such, the Department will recalculate Claimant's earned income in accordance with Department policy. See BEM 505, pp. 1-8.

Then, the Department properly applied the \$220 standard deduction applicable to Claimant's group size of six. See RFT 255 (October 2014), p. 1 and see Exhibit 1, p. 7.

Additionally, the Department calculated Claimant's dependent care expenses to be zero. Claimant disputed this amount and testified that her dependent care expenses was approximately \$200 a month. Claimant's testimony indicated that she reported her child care expenses to the Department.

For groups with no senior/disabled/disabled veteran (SDV) member, the Department allows dependent care expenses. See BEM 554 (October 2014), p. 1. The Department allows an unreimbursed dependent care expense for a child or an incapacitated adult 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, p. 7. This is the amount the FAP group actually pays out-of-pocket. BEM 554, p. 7. The expense does not have to be paid to be allowed. BEM 554, p. 7. The Department allows only the amount the provider expects the client to pay out-of-pocket. BEM 554, p. 7. Work includes seeking, accepting or continuing employment; or training or education preparatory to employment. BEM 554, p. 7. The Department verifies dependent care expenses at application, reported change

and redetermination. BEM 554, p. 8. Verification sources include, but are not limited to, bills or written statement or collateral contact with the provider. BEM 554, p. 8.

Policy further indicates for the caseworker to especially be careful in following the above dependent care expense budgeting policy if the client's dependent care is reimbursed by the CDC or another agency or person. See BEM 554, p. 7.

Based on the foregoing information and evidence, the Department improperly calculated Claimant's dependent care expenses in accordance with Department policy. Claimant credibly testified that she notified the Department of her CDC expenses in December 2014. In fact, the Department would have been aware of such expenses due to Claimant's CDC application in October 2014. Policy states that the Department verifies dependent care expenses at application, reported change and redetermination. See BEM 554, p. 8. In this case, the evidence failed to indicate that the Department requested any verification of the expenses in accordance with Department policy. See BEM 554, pp. 7-8. The Department will recalculate Claimant's FAP benefits (including her dependent care expenses) effective January 1, 2015. See BEM 554, pp. 7-8.

It should be noted that Claimant did not dispute her housing expenses, which the Department budgeted as \$300. See Exhibit 1, p. 8. Also, the Department provided Claimant with the \$553 heat and utility standard, which she did not dispute. See Exhibit 1, p. 8 and RFT 255, p. 1.

DECISION AND ORDER


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 (i) did not act in accordance with Department policy when it improperly denied Claimant's CDC application effective October 19, 2014; and (ii) failed to satisfy its burden of showing that it properly calculated Claimant's FAP reduction effective January 1, 2015.

Accordingly, the Department's FAP and CDC 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. Initiate registration and processing of Claimant's CDC application dated October 29, 2014;
2. Begin issuing supplements to Claimant for any CDC benefits she was eligible to receive but did not from October 19, 2014, ongoing;

3. Begin recalculating the FAP budget for January 1, 2015, ongoing, (including Claimant's earned income and dependent care expenses/deduction) in accordance with Department policy;
4. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from January 1, 2015, ongoing; and
5. Notify Claimant of its FAP and CDC decision in accordance with Department policy.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

EJF / cl

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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