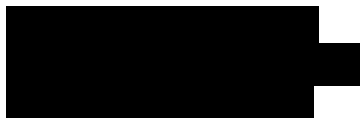


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 14-019392
Issue No.: 3002, 6008
Case No.: [REDACTED]
Hearing Date: February 10, 2015
County: WEXFORD

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 10, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) benefits and her 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. Claimant was an on-going recipient of FAP and CDC.
2. An FAP Redetermination Form was received from Claimant on August 26, 2014, and a telephone interview was completed September 15, 2014.
3. A Verification Checklist (VCL) was mailed to Claimant on September 17, 2014, requiring her to verify her bank account balance, among other details, by September 29, 2014.
4. The Department became aware that Claimant was receiving child support of \$ [REDACTED] per month, which had not previously been included in Claimant's FAP or CDC budgets.

5. The Department had previously received verification that Claimant had employment income from [REDACTED] and they budgeted her earned income at \$ [REDACTED] per month.
6. The Department did not receive verification of the bank account by the due date.
7. On October 15, 2014, the Department mailed to Claimant a Notice of Case Action (NCA) informing her that her CDC would be closed beginning November 2, 2014, and she was approved for FAP of \$ [REDACTED] for the month of October 2014, then \$ [REDACTED] per month beginning November 1, 2014. (Exhibit A Pages 29-31.)
8. Another VCL (Exhibit A Pages 49-50) was mailed to Claimant on October 30, 2014, requesting verification of childcare need, as well as verification of her bank accounts. Her response was due by November 10, 2014.
9. On November 15, 2014, the Department mailed to Claimant an NCA (Exhibit A Pages 55-56) informing her the FAP would be closed December 1, 2014, due to lack of verification.
10. Another NCA was mailed November 24, 2014, (Exhibit A Pages 57-28) informing her she was not eligible for CDC because of excess income.
11. The Department received Claimant's hearing request on December 2, 2014.

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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice 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.

The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the forms were mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond or make a reasonable effort to respond by the deadline. Therefore, the Department properly closed Claimant’s FAP.

Per BEM 505 (7/1/13), p 1,

“A group’s financial eligibility and monthly benefit amount are determined using:

- Actual income (income that was already received).
- Prospected income amounts (not received but expected).

Only countable income is included in the determination; see BEM 500.

Each source of income is converted to a standard monthly amount, unless a full month’s income will not be received; see standard monthly amount in this item.

“For CDC, benefit month is the month in which the pay period ends.”

The Department redetermined Claimant’s CDC based upon the reported earned and unearned income. The Department received a summary of Claimant’s wages. In her check dated [REDACTED] she was paid \$ [REDACTED]. On [REDACTED] she was paid \$ [REDACTED]. On [REDACTED], she was paid \$ [REDACTED]. On [REDACTED] she was paid \$ [REDACTED]. On [REDACTED], she was paid \$ [REDACTED]. Her total wages for those five weeks

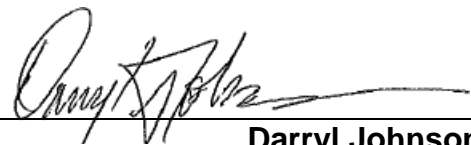
was \$ [REDACTED] or \$ [REDACTED] weekly. That equates to \$ [REDACTED] per month when the average weekly gross is multiplied by the factor of 4.3. The Department also included \$ [REDACTED] per month in child support, putting her monthly gross income at \$ [REDACTED]. In the budget provided by the Department (Exhibit A Page 31), they calculated her earned income as \$ [REDACTED]. In the NCA at page 58, it states her CDC was denied due to excess income, but no budget is included to detail the calculations of her income.

Per RFT 270, (8/1/14) if a group of two has income of more than \$ [REDACTED] per month, the group is not eligible for any CDC. With income of \$ [REDACTED] or less, she would have had 95% of her childcare expense paid. If her income were between \$ [REDACTED] and \$ [REDACTED] she could have had 90% of it paid, and if her income were between \$ [REDACTED] and \$ [REDACTED] she could have had 80% of it paid. Even if she had gross income of \$ [REDACTED] to \$ [REDACTED] she could have had 70% of it paid. Because the Department did not include a budget in the [REDACTED] NCA; and because her income appears to have been just \$ [REDACTED] per month, she appears to have been within the bracket that would have allowed her to have 95% of her CDC paid for.

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 denied CDC due to excess income. It did, however, act in accordance with Department policy when it closed her FAP due to her failure to verify her bank balances. Furthermore, because the October 30, 2014, VCL instructed her to provide verification to help determine her eligibility for FAP and CDC, and because she did not provide verification of her bank accounts, she was not eligible for FAP or CDC.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/11/2015**

Date Mailed: **2/11/2015**

DJ/jaf

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:

