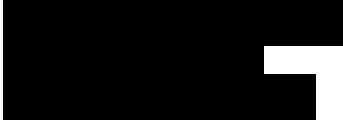


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-12514
Issue No(s): 3001, 6001
Case No.: [REDACTED]
Hearing Date: December 17, 2013
County: Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistance Payments Supervisor, and [REDACTED] Assistance Payments Worker.

ISSUES

- 1) Did the Department properly close the Claimant's Food Assistance Program (FAP) and Child Development and Care (CDC) cases due to excess income?
- 2) Did the Department properly deny the Claimant's FAP and CDC application due to 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. The Claimant was a recipient of FAP and CDC benefits
2. On October 1, 2013, the Claimant returned a Redetermination for her Medicaid¹ case and reported she is now employed.
3. Based on the new income information, the Department re-determined eligibility for FAP and CDC.

¹ On the Redetermination the Claimant also indicated she no longer needed Medicaid because of her new employment. The closure of the Claimant's Medicaid case, based on the Claimant's request, was not contested.

4. In October 2013, the Department issued notice to the Claimant that her FAP and CDC cases would close because she is over the income limit for both programs.
5. On October 25, 2013, the Claimant submitted an application for FAP and CDC even though her situation had not changed.
6. On October 30, 2013, the Department issued a Notice of Case Action to the Claimant that the FAP and CDC application was denied because she is over the income limit for both programs.
7. On November 18, 2013, the Claimant filed a request for hearing contesting the Department's actions regarding the FAP and CDC benefits.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

For CDC, if the program group does not qualify for one of the categorically eligible groups, the Department must determine eligibility for the income-eligible group. The program group's countable income is tested against the Child Development and Care

Income Eligibility Scale found in RFT 270. BEM 703. For a group of two, there is no DHS assistance if gross monthly income is over \$ [REDACTED] RFT 270.

For FAP, a non-categorically eligible non-Senior/Disabled/Veteran (non-SDV) FAP group must have income below the gross and net income limits. BEM 550. The FAP gross income limit for a group size of two is \$ [REDACTED] RFT 250. Stable and fluctuating income that is received more often than monthly is converted to a standard monthly amount. Income that is received every two weeks is multiplied by 2.15. BEM 505.

In the Redetermination, the Claimant reported that she is now employed, is paid a salary, and gets paid bi-weekly. One paycheck stub was submitted for verification of the income from her new employment. The paycheck stub showed gross wages of \$ [REDACTED]. Accordingly the Department calculated the Claimant's gross monthly income as \$ [REDACTED]. The Claimant is over the gross income limit for both the CDC and FAP programs.

The Claimant testified that she is the sole provider and her net income is \$ [REDACTED] less than her gross income. With child care, rent, and living expenses it is not possible for the Claimant to make all of her payments. The Claimant provided documentation of the many expenses she has. The Claimant also noted that the child support she receives is inconsistent and sporadic. The Claimant stated that it is not reliable income to include in the budget.

The Assistance Payments Supervisor and the print outs of the CDC and FAP income eligibility determinations show that no child support was considered for these determinations. The Claimant's was over the gross income limits based solely on her earned income from employment. While it is understandable that the Claimant's net income is considerably less than her gross income and that there are numerous significant monthly expenses, the Department policy is clear. There are gross income limits for both the FAP and CDC benefit programs. Further, this ALJ has no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or overrule or make exceptions to Department policy. State of Michigan Department of Human Services Delegation of Hearing Authority (7/10/2013)

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 acted in accordance with Department policy when it closed the Claimant's CDC and FAP cases and when it denied the Claimant's FAP and CDC application based on excess income.

DECISION AND ORDER

Accordingly, the Department's decisions are **AFFIRMED**.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 20, 2013

Date Mailed: December 26, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CL/hj

cc:

