

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15101
Issue No(s): 3008
Case No.: [REDACTED]
Hearing Date: January 9, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: Darryl T. 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 January 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED].

ISSUE

Did the Department properly reduce Claimant's Food Assistance Program (FAP) and end her Child Development 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. Claimant provided updated income information to the Department.
3. On November 14, 2013 the Department mailed a Notice of Case Action to Claimant advising her that her CDC would be closed and her FAP would be reduced.
4. On November 20, 2013, Claimant filed a hearing request.

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 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 t o 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 table that details the income limits for CDC is found at RFT 270. A portion of that table follows:

PROGRAM GROUP SIZE		GROSS MONTHLY INCOME - Effective 02/01/2003				
1 or 2	\$0 - \$1496	\$1497 - \$1533	\$1534 - \$1570	\$1571 - \$1607	No DHS assistance if gross monthly income is over \$1607	
3	\$0 - \$1847	\$1848 - \$1895	\$1896 - \$1943	\$1944 - \$1990	No DHS assistance if gross monthly income is over \$1990	
4	\$0 - \$2198	\$2199 - \$2255	\$2256 - \$2311	\$2312 - \$2367	No DHS assistance if gross monthly income is over \$2367	
5	\$0 - \$2551	\$2552 - \$2616	\$2617 - \$2681	\$2682 - \$2746	No DHS assistance if gross monthly income is over \$2746	
% of DHS Rate Paid	95%	90%	80%	70%		

The testimony establishes that Claimant's countable monthly income for CDC purposes is \$ [REDACTED]. For a group size of 3 her income is greater than the \$ [REDACTED] maximum allowed.

The FAP allotment is based upon budgetary calculations, which in turn depend upon income – earned and unearned. Previously, Claimant's FAP was calculated using an earned income of \$ [REDACTED]. When Claimant provided update earnings information she submitted a pay stub from October 18, 2013, showing gross income of \$ [REDACTED] and a pay stub from November 1, 2013, showing gross income of \$ [REDACTED]. Using the standard calculation to convert two bi-weekly paychecks into a monthly (30 day) amount it determined her monthly gross earned income to be \$ [REDACTED]. She also had child support averaging \$ [REDACTED] monthly for the three prior months. Child support is considered "unearned income." See BEM 503. Per BEM 505, child support is generally averaged over a three month period if the amount of income fluctuates. "Use the average of child support payments received in the past three calendar months, unless changes are expected. Include the current month if all payments expected for the month have been received. Do not include amounts that are unusual and not expected to continue." There was no evidence provided that the amounts are unusual and not expected to continue.

There is no evidence that the Department erred in its calculation of Claimant's FAP benefits after taking into account his monthly income. Nor is there any evidence that the Department erred in its calculation of Claimant's CDC ineligibility.

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 reduced Claimant's FAP and closed her CDC.

DECISION AND ORDER

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



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 10, 2014

Date Mailed: January 10, 2014

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

DTJ/las

cc:

