

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201417243
Issue No.: 3008; 6001
Case No.: [REDACTED]
Hearing Date: January 13, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly deny Claimant's application for 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 ongoing recipient of FAP benefits.
2. In connection with a file reconstruction, on [REDACTED], 2013, Claimant reapplied for FAP benefits and applied for CDC benefits.
3. Claimant received monthly FAP benefits of \$45.

4. On [REDACTED] 2013, the Department sent Claimant a Notice of Case Action denying her CDC application because her income exceeded the applicable income limit under the program.
5. On [REDACTED] 2013, Claimant filed a request for hearing disputing the Department's denial of her CDC application and calculation of her FAP 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 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, Claimant requested a hearing disputing the Department's denial of her CDC application and calculation of her FAP benefits.

Denial of CDC Application

Although Claimant testified that worker had spoken to her about her eligibility for CDC benefits over a prolonged period of time, the evidence established that she had filed only the [REDACTED], 2013, application for CDC benefits. Because there was no evidence that a request for assistance with sufficient identifying information had been presented to the Department prior to that application, Claimant's eligibility based on this application is considered in this decision. See BAM 110 (July 2013), pp. 5, 18. .

The Department testified that Claimant's [REDACTED] 2013, CDC application was denied because her income exceeded the limit for CDC eligibility. Groups who are not categorically eligible for CDC benefits (based on protective services, foster care or FIP/EFIP-related situations) may be eligible for CDC if they pass the income eligibility test. BEM 703 (July 2013), pp. 14-16. Claimant's CDC group has four members: Claimant and her three minor children who live with her. See BEM 205 (July 2013), pp.

1-2. The CDC gross income limit for a group size of four is \$2367. RFT 270 (October 2011).

The Department presented a CDC income eligibility budget showing that it calculated Claimant's earned income at \$2431 and her child support income at \$366.75 for total gross income of \$2,797.75. The determination of a client's income eligibility for CDC benefits requires consideration of the client's gross monthly income. BEM 525 (July 2013), p. 1. The Department testified that in calculating Claimant's gross earned income it considered Claimant's biweekly pay from [REDACTED], 2013 to [REDACTED], 2013. To determine a standard monthly income amount for CDC purposes, Claimant's biweekly pay must be multiplied by 2.15 in accordance with Department policy. See BEM 505 (July 2013), pp. 7-8. A review of Claimant's income for the period at issue shows that her gross monthly average income over the period at issue results is actually less than the \$2431 considered by the Department and less than the applicable \$2,367 CDC income limit. It is further noted, however, that the payment received on [REDACTED], 2013, was considerably less than the other payments considered (more than \$800 less than the next lowest paycheck) and, accordingly, should not have been considered in the calculation of Claimant's gross monthly earned income. See BEM 505, pp. 5-6 (requiring that the Department consider pay up to 90 days of the interview date and requiring that unusual pay not expected to continue be discarded).

In calculating Claimant's gross income, the Department also considered Claimant's child support income. The total amount of court-ordered direct support is counted as unearned income and is considered in the calculation of a client's CDC budget. BEM 503 (July 2013), pp. 5-8. The calculation of monthly child support income requires use of an average of the past three months' received payments unless changes are expected. BEM 505, pp. 3-4. The Department testified that the \$366.75 figure it used was based on the average monthly income Claimant received for [REDACTED] of her children, [REDACTED], [REDACTED], and [REDACTED], for [REDACTED] 2013, [REDACTED] 2013 and [REDACTED] 2013, the three months prior to the [REDACTED] 2013, application.

The Department provided a consolidated inquiry showing that Claimant received direct child support for [REDACTED] and [REDACTED] totaling \$6.68 for [REDACTED] 2013; \$11.46 for [REDACTED] 2013; and \$128.98 for [REDACTED] 2013. The consolidated inquiry showed that Claimant received direct child support for [REDACTED] of \$11.05 in [REDACTED] 2013; \$18.96 in [REDACTED] 2013; and \$213.46 in [REDACTED] 2013. Based on information from the consolidated inquiry, Claimant received a child support totaling \$17.73 in [REDACTED] 2013; \$30.42 in [REDACTED] 2013; and \$342.44 in [REDACTED] 2013. Based on these monthly figures, Claimant's monthly child support income was \$130.20, not \$366 as indicated on the CDC budget.

It is noted that Claimant disputed the amount of monthly child support shown on the consolidated inquiry presented by the Department. A printout Claimant provided into evidence from the Office of Child Support (OCS), which she testified showed the child support she received between [REDACTED] 2013 and [REDACTED] 2013, showed the same amounts for child support received for [REDACTED] 2013 and [REDACTED] 2013 as shown on the

consolidated inquiry. While the OCS report showed only \$43.08 in child support income for ██████████ 2013, Claimant's query requested a history of payments she received through ██████████ 1, 2013. Therefore, Claimant's printout did not include the child support she received through all of ██████████ 2013. Because the Department was required to consider all of the child support income received through the month of ██████████ 2013, the printout fails to establish that the information in the consolidated inquiry was inaccurate.

Because the Department did not calculate Claimant's gross monthly earned income and her child support income consistent with its testimony and in accordance with Department policy, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it concluded that Claimant was ineligible for CDC benefits.

Calculation of FAP Benefits

The Department testified that, effective from at least ██████████ 2013, Claimant received monthly FAP benefits of \$48. In her hearing request, Claimant contested the Department's calculation of her income and expenses.

At the hearing, the Department presented a FAP budget showing the calculation of Claimant's FAP benefits. The FAP budget showed earned income totaling \$2670, which the Department testified was based on Claimant's gross biweekly employment income from ██████████ 2013 to ██████████ 2013. While Claimant testified at the hearing that she was satisfied with the Department's calculation of her gross monthly earned income, because the figure used in the CDC budget for earned income is inconsistent with the figure in the FAP budget and because, as discussed above, the Department's testimony concerning the figures it used to calculate the income is not consistent with final figure it calculated as Claimant's gross monthly earned income, the Department did not satisfy its burden of showing that it calculated Claimant's gross earned income in accordance with Department policy.

Claimant was also concerned about (i) the calculation of her child support income, (ii) her shelter expenses, and (iii) her dependent care expenses. As discussed above, the Department did not act in accordance with Department policy in calculating Claimant's child support income. At the hearing, the Department acknowledged that Claimant had identified monthly housing expenses of \$675 and twice-monthly payments of \$250 for day care expenses in her ██████████ 2013, application but the Department considered only \$625 for Claimant's monthly housing expenses and \$250 for her dependent care deduction. Because the Department did not use the correct earned income figure, child support figure, shelter expenses and dependent care expenses, the Department did not act in accordance with Department policy in calculating Claimant's FAP benefits.

There was some discussion on the record concerning when the changes would affect Claimant's FAP benefits. The only documentary evidence establishing the changes and housing expenses and day care expenses was the ██████████ 2013, application. Although Claimant alleged that she had notified the Department of these changes in late

██████████ 2013, any changes reported after ██████████ ██████████ 2013, would affect ██████████ 2013 FAP benefits. See BAM 220 (October 2013), pp. 6-7.

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 calculated Claimant's FAP benefits and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application.

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. Reregister and reprocess Claimant's ██████████ ██████████ 2013, CDC application;
2. Recalculate Claimant's FAP budget for ██████████ ██████████ 2013, ongoing;
3. Issue supplements to Claimant for any CDC and/or FAP benefits she was eligible to receive but did not from ██████████ ██████████ 2013, ongoing; and
4. Notify Claimant of its CDC decision in writing.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 21, 2014

Date Mailed: January 21, 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

ACE/tlf

cc:

