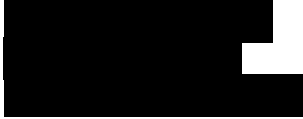


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-34456
Issue No(s): 3008;6001
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 May 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's application for Child Development and Care (CDC) benefits and calculate the amount of her Food Assistance Program (FAP) 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. On March 12, 2014, Claimant submitted an application for CDC benefits.
2. On April 4, 2014, the Department sent Claimant a Notice of Case Action informing her that her CDC application had been denied on the basis that her gross income exceeds the limit. (Exhibit 1)
3. Claimant was approved for FAP benefits in the amount of \$15 monthly, effective March 1, 2014.
4. On April 9, 2014, Claimant submitted a hearing request disputing the Department's actions.

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).

CDC

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.

In this case, Claimant submitted an application for CDC benefits on March 12, 2014, that was denied by the Department on the basis that Claimant's gross income exceeded the limit for receipt of CDC benefits. (Exhibit 1). In order to be eligible for CDC benefits, the group must have gross income that falls within the income scale found in RFT 270. RFT 270 (December 2013), p.; BEM 703 (July 2013); BEM 205 (July 2013); BEM 525 (July 2013). The CDC income limit for a two member CDC group (Claimant and her one child) is \$1607. RFT 270, p.1.

At the hearing, the Department presented a CDC Income Eligibility budget in support of its determination that Claimant had excess income and was thus, ineligible for CDC benefits. (Exhibit 2). The Department concluded that Claimant had earned income of \$1762. The Department testified that in calculating Claimant's earned income, it relied on the Verification of Employment that was submitted in February 2014, prior to her application date. (Exhibit 2). The Department stated that it specifically considered Claimant's biweekly earnings of \$787 paid on January 2, 2014 and \$852 paid on January 16, 2014. (Exhibit 2).

Although Claimant confirmed that the pay information considered by the Department were accurate, in prospecting income, the Department is required to use income from the past thirty days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505 (July 2013), pp. 4-5. The Department will consider income from the past 60 or 90 days for fluctuating or irregular income if the past 30 days is not a good indicator of future income and the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month. BEM 505, pp.5-6. The Department confirmed that it did not request verification of Claimant's most recent pay information to determine the income earned in the thirty days prior to the application date.

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 because the Department did not consider the correct income amounts, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application on the basis that her income exceeded the limit.

FAP

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.

Additionally, Claimant disputed the Department's calculation of her FAP benefits, effective March 1, 2014. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. BEM 500 (January 2014), pp. 1 – 4. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (July 2013), p. 1.

At the hearing, the FAP EDG Net Income Results Budget was reviewed. (Exhibit 4). The Department concluded that Claimant had earned income of \$1762. Based on the above discussion, the Department did not properly calculate Claimant's earned income.

The budget shows that the Department properly applied the \$151 standard deduction applicable to Claimant's confirmed group size of two; however, the Department testified that the \$553.00 standard heat and utility deduction available to all FAP recipients was not considered or applied to Claimant's FAP budget. RFT 255 (December 2013), p 1; BEM 554 (July 2013), pp. 14-15. The Department stated that it did not consider Claimant's rental expense of \$550 because Claimant did not submit verification of her shelter expense. Claimant credibly testified that she pays utilities and that she submitted a copy of her lease and verification of her expenses to her previous case worker. Claimant provided a copy of her lease for review at the hearing which confirms her testimony that she pays monthly rent of \$550.

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 because of the errors in the calculation of Claimant's earned income, and shelter expenses, the Department did not act in accordance with Department policy when it determined that Claimant was eligible for FAP benefits in the amount of \$15.

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. Register and process Claimant's CDC application;
2. Issue supplements to Claimant and her Child Care Provider for any CDC benefits that she was entitled to receive but did not from the date of application, ongoing, if otherwise eligible and qualified;
3. Recalculate Claimant's FAP budget for March 1, 2014, ongoing; and
4. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from March 1, 2014, ongoing; and
5. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 20, 2014

Date Mailed: May 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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 48909-07322

ZB/tlf

cc:

